

For Fundamental
Human Rights

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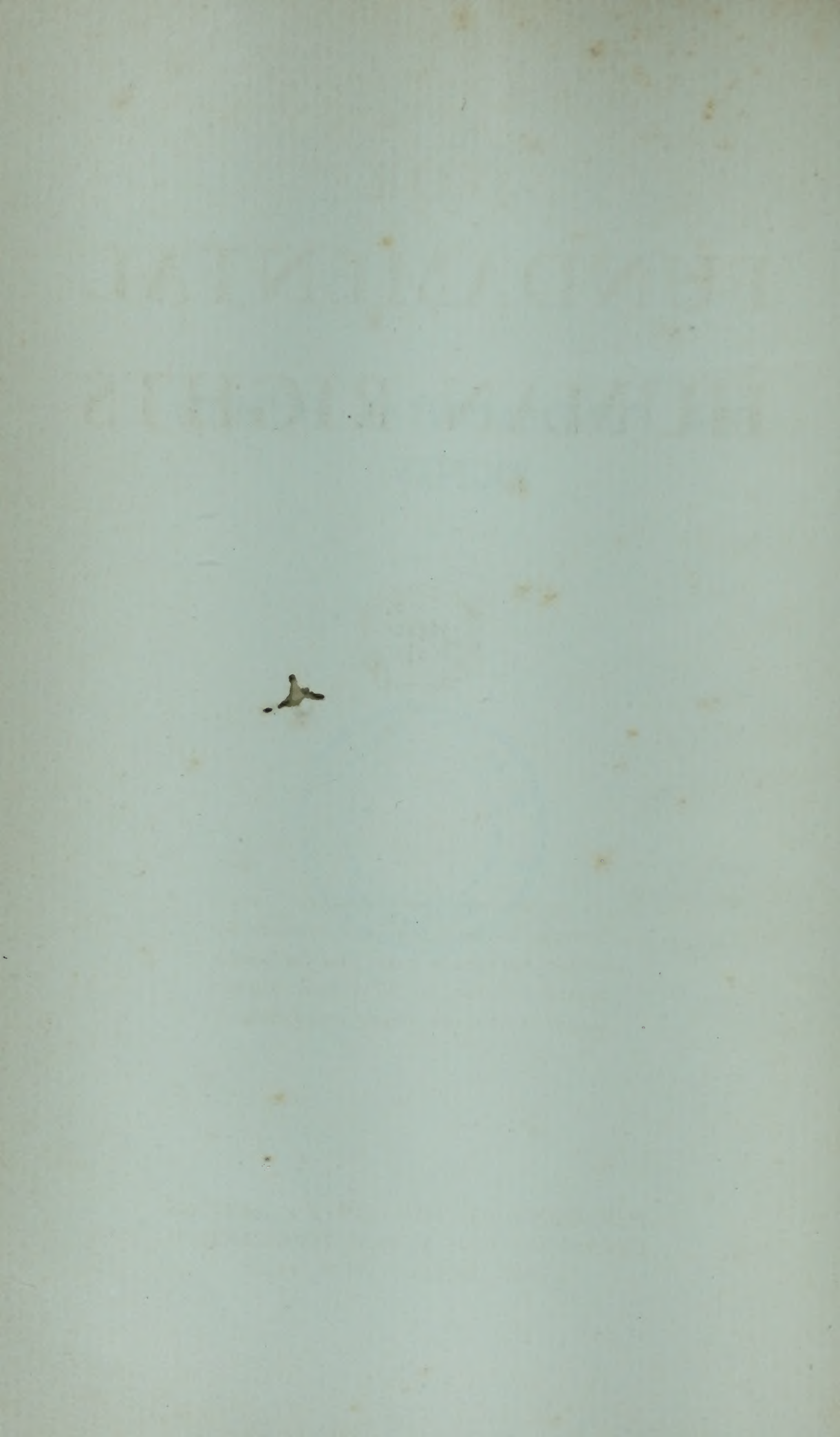
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FOR FUNDAMENTAL HUMAN
RIGHTS





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FOR FUNDAMENTAL HUMAN RIGHTS



An account of the work of the United Nations "in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion."

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"Several of the most difficult preliminary steps toward a realization of the aims of the Charter with respect to human rights and fundamental freedoms have already been taken. Acceptance by Governments of the principles that have been so carefully formulated, and of the measures of implementation that have been proposed, may, by establishing international machinery for the protection of the rights and freedoms in individuals, remove one of the principal causes of war."

TRYGVE LIE, Secretary-General of the United Nations, in his annual report on the Work of the Organization, presented to the third session of the General Assembly in September, 1948.

This volume carries the story of the work of the United Nations in the field of human rights from the San Francisco Conference 1945, to the opening of the Third Session of the General Assembly in Paris in September, 1948. .

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INTRODUCTION

A MESSAGE OF HISTORIC IMPORTANCE

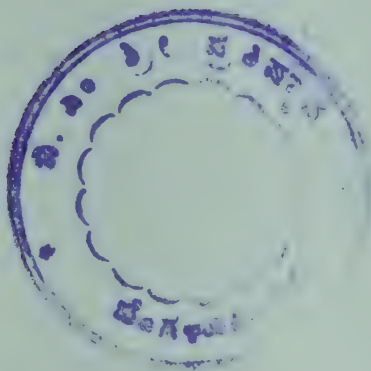
JUNE 18, 1948, was a day like most others at Lake Success. In the large building which houses the Secretariat and the many Conference rooms, organs of the United Nations were discussing different aspects of international life. The Security Council provided the main attraction of the morning; the meeting of the Trusteeship Council attracted the public in the afternoon. Members of the Secretariat, newspapermen and visitors curious to see the United Nations in action, filled the Conference rooms to listen to the representatives on the two Councils, as they spoke from behind semi-circular tables facing the public.

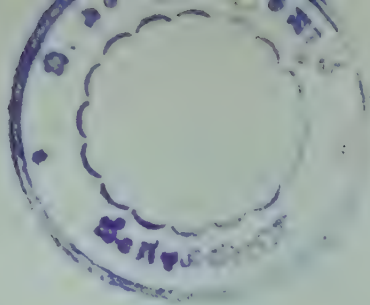
But the really big event of the day took place in surroundings much less impressive. The seats reserved for visitors were almost empty. Late in the evening, one of the most important developments in the history of the United Nations took place when an expert body passed a document of significance to all mankind.

In Conference room No. 2, the Commission on Human Rights, a body without precedent in the history of international co-operation, adopted, under the chairmanship of Mrs. Eleanor Roosevelt, a text also without precedent: a draft "International Declaration of Human Rights." Of course, this text was only a draft to be submitted to the Economic and Social Council, of which the Commission is a subsidiary organ. Furthermore, the Council, after a consideration of the draft, had to submit it to the General Assembly, and it was only after the Assembly approved it that the Declaration would become a recommendation addressed to all Member states of the United Nations.

What is more, this Declaration was, in the opinion of the members of the Commission of Human Rights, only a first part of the larger work: a Bill of Human Rights which would include equally a formal convention—that is, a measure which would be legally binding on the signatory states—and detailed plans for implementing the convention.

Nevertheless, it is impossible to exaggerate the importance of the decision of June 18. For the first time in the history of the world, an international body, mandated by the community of nations for the purpose, had agreed on a message to be placed before the peoples of the world: a message which might, in the years to come, assume the importance for the world which the Declaration of the Rights of Man had for the people of France, and the Declaration of Independence and the Bill of Rights had for the peoples of America.





CHAPTER I

FROM THE "FOUR FREEDOMS" TO THE CHARTER OF THE UNITED NATIONS

THE ROAD to the draft "Declaration of Human Rights" was not an easy one. Tremendous happenings, difficult negotiations, the persistent and daring work of men who had a vision of a better world and much patient study were necessary to establish a "Commission of Human Rights" and to draft an "International Declaration of Human Rights."

To make the idea of *international* protection of human rights—ignored even by the League of Nations¹—a reality accepted by the conscience of civilized nations, the world had first to live through the horrors of the Nazi-Fascist adventure and the terrible devastation of the Second World War.² It needed too that humanitarian leader, President Roosevelt, who understood and announced in a message delivered in the darkest hour of the war that the future world order should be founded on respect for the essential freedoms of men "everywhere in the world."³

To impress upon the governments, waging the war of liberation, that this message of four freedoms must become one of their most dominant preoccupations, the clear-sightedness of statesmen had to be constantly stimulated by public opinion and by the detailed studies of private groups and individuals devoted to research on permanent peace.

Thanks to this historical, political and moral atmosphere, the idea of the international protection of fundamental human rights was partially embodied in the Atlantic Charter.⁴ Then the signatories of the United Nations Declaration pledged themselves to recognize the idea as one of the official purposes of the war waged by the Allied Powers, a purpose to be embodied in the Peace.⁵ Next, the plan for a world organization, known as the Dumbarton Oaks proposals reg-

istered the importance of the idea, if only in a summary way.⁶ The idea also inspired several resolutions of great moral and legal importance adopted at the Chapultepec Inter-American Conference on problems of war and peace.⁷ It triumphed finally when it found prominent place in the Charter of the United Nations.⁸

Today, in the Charter which binds the great majority of governments on earth, Human Rights occupies an honored position. Nor did the fathers of the Charter limit themselves to proclaiming in a solemn preamble the faith of the peoples of the United Nations in "fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women." They placed the protection of human rights and fundamental freedoms on the list of the essential purposes of the Organization. After declaring that the *first* purpose of the United Nations is to maintain international peace and security; the *second*, to develop friendly relations among nations, the Charter defines the *third* purpose thus: "To achieve international co-operation in solving international problems of an economic, social, cultural or humanitarian character, and in *promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion.*"

There could be no doubt after this, that the effort to ensure respect for the rights of man would be an important part of the work of the United Nations in creating everywhere in the world favorable conditions for the maintenance of peace, and the establishment of good relations among the nations.

But how and by whom would the effort be organized?

The Charter's answer is: by the General Assembly, by the Economic and Social Council and by a Commission on Human Rights.

The General Assembly, the largest of the organs of the United Nations with important functions concerning the two first purposes of the Organization, was to initiate studies and make recommendations for the purpose of "assisting in the realization of Human Rights and fundamental freedoms for all."

The Economic and Social Council—the first international body in the history of mankind to be charged with solving international economic, social and humanitarian problems—was to work out the program in all its details, under the authority of the General Assembly

and with the assistance of a special commission, the Commission on Human Rights.

What is the scope of these new efforts?

The Charter makes it clear that the recommendations of the Economic and Social Council shall promote "universal respect for, and observance of human rights and fundamental freedoms for all," and, that in order to achieve this purpose "all members pledge themselves to take joint and separate action in co-operation with the Organization."

The Charter equally stipulates that one of the most important purposes of the trusteeship system is "to encourage respect for human rights and for fundamental freedoms for all."⁹

Thus on June 26, 1945, when the delegates of 50 nations signed the Charter of the United Nations, a new era began in the age-old struggle for the rights of man. The protection of human rights emerged from the sphere of ideals and became a formal obligation binding all the Members of the Organization. This is one of the obligations of the Charter which countries applying for Membership should be willing to accept.

The provisions of the Charter on human rights are not merely an expression of faith. They call for a concrete program to promote and ensure fundamental freedoms: a program, the first element of which should be an international declaration of human rights.

Indeed at the opening stage of the San Francisco Conference—and even before—several governments and numerous non-governmental organizations asked the Conference to draft such a declaration as part of the Charter. The Panama delegation presented a complete draft of a Declaration on Human Rights.

But the delegates considered such an undertaking too ambitious for a diplomatic conference which had its hands full with the all-consuming work of drafting the Charter itself.

However, the necessity of completing the Charter by adding to it an international Bill of Rights, listing, defining and specifying the fundamental human rights and liberties, was generally admitted at San Francisco. It was understood that this work would be taken up as soon as the organization began to function, and that it was for the General Assembly to proclaim the first international Declaration of Human Rights.¹⁰

CHAPTER II

ESTABLISHMENT OF WORKING MACHINERY

ON THE MORROW of June 26, 1945, some sceptical minds did, of course, profess that the impetus which the Charter had given to the concept of human rights would be halted by post-war preoccupations of a more urgent nature. But this scepticism was soon discredited.

The United Nations' Charter came into force on October 24, 1945. But, even before this date, a Preparatory Commission had started working on the structure of the new international organization. Its work, completed on December 23, 1945, included recommendations concerning the establishment and functions of a Commission on Human Rights.¹¹ In January 1946, the General Assembly during the first part of its first session, elected the 18 members of the Economic and Social Council.

A few weeks later, on February 16, the Economic and Social Council established a Commission on Human Rights in nuclear form.¹² This Commission, meeting in New York on April 29 under the chairmanship of Mrs. Eleanor Roosevelt, widow of the author of the "Four Freedoms" message, formulated for the Economic and Social Council a series of recommendations which in fact inspired all the subsequent work of the United Nations in the field of human rights.

On June 21, the Council established the full and permanent Commission on Human Rights¹³ authorizing it to set up several sub-commissions concerned with: (a) freedom of information and of the press; (b) prevention of discrimination and protection of minorities; (c) status of women. The Sub-Commission on the Status of Women received at the second session of the Council the status of a full commission.

Meanwhile, the Secretariat of the United Nations established a

Department of Social Affairs and inside this department a Division of Human Rights.¹⁴

In accordance with the provision of the Charter, the Economic and Social Council also defined the rules by which specialized agencies—such as UNESCO and ILO—and important non-governmental organizations were enabled to participate in the activities of the Council and its subsidiary bodies.¹⁵

Thus an intricate machinery, coming into existence so to speak from nothingness, began to work without ceasing. Three plenary sessions of the Commission on Human Rights, several sessions of the sub-commissions, numerous meetings of the drafting committee and the working groups, two sessions of the Commission on the Status of Women, an International Conference on Freedom of Information, and important discussions which took place during seven sessions of the Economic and Social Council and two regular sessions of the Assembly, enabled the United Nations to clear the field of international protection of human rights, to sow the seeds of the principles written in the Charter and harvest the first fruits.

This indeed was extraordinary machinery. Here was an organ of the United Nations, established not only to regulate relations between States, but to define the relationship of individual human beings with the community, even the relationship between individuals themselves. What an astonishing spectacle, when, during the discussions of delegates from different countries, we saw diplomatic skill bow to expert knowledge and scholarship. Here was a body pre-occupied mainly with ideas, trying to deepen moral concepts, philosophical doctrines, and legal and sociological theses in a common effort to build a new soul for the international body.

In this new and harmonious technique of international co-operation, the General Assembly directs to the Economic and Social Council a number of illuminating instructions; the Council discusses and elaborates its own recommendations and sends them to the Assembly.

The same procedure is followed by the Council in its relations with the subsidiary organs.

Always at the center of this large spiritual circuit, functioning as a true laboratory in which ideas are tested and formulated, is the Commission on Human Rights.

The co-operation of the inter-governmental bodies related to the United Nations—the great group of “Specialized Agencies”—enlarges

the scope of this machinery. The expert aid of the International Labor Organization and the United Nations Educational Scientific and Cultural Organization, for example, is of the greatest importance. One is tempted, however, to give particular value to the assistance of the non-governmental organizations. It is due to their participation in the debates on Human Rights and to their constant effort to bring to the attention of the official delegates the wishes—and criticisms—of various segments of the world population, and also to the encouragement given to them by the United Nations—that the work is not narrowed to a limited technical and legal outlook. On the contrary, the machinery is able to reflect the living aspirations of the people.

CHAPTER III

DRAFT OF THE DECLARATION OF HUMAN RIGHTS

ALL THIS ELABORATE machinery was set up for the great and long-range task of "promoting and encouraging respect for human rights and fundamental freedoms for all." However, immediately after the signing of the Charter, the representatives and experts of the United Nations, remembering the sentiments of San Francisco and faithful to the aspirations of world public opinion, considered the drafting of a Declaration of Human Rights as their first and most important mission. This explains why the Preparatory Commission as early as December 1945, and afterwards, the Economic and Social Council in its first session in January-February 1946, set the drafting of such a declaration as the first task of the Commission of Human Rights. For the same reasons, M. Henri Laugier, Assistant Secretary-General of the United Nations, in his opening address to the first meeting of the Nuclear Commission, held on April 29, 1946, in a modest classroom in New York's Hunter College, invited the members "to consider immediately the basis of a Declaration of fundamental rights acceptable to all the United Nations: a declaration which could become a condition for the admission of new Members to the United Nations."

Reporting to the Economic and Social Council, the Nuclear Commission also stressed the importance of such a Declaration and invited the Secretariat to provide the documentation and to prepare working papers for the Commission.

In its session of May-June, 1946, the Economic and Social Council confirmed and approved these instructions. Thereupon, the Commission on Human Rights, meeting in January-February, 1947, discussed the problem in detail. It studied the documentation prepared by the Secretariat, and drafts of an International Bill of Human Rights submitted by Panama, Chile, Cuba, the United States of America, and by some non-governmental organizations.

The Commission entrusted to a drafting group—which later became a Drafting Committee—the task of preparing a preliminary draft of the International Bill of Human Rights.¹⁶

The discussions of this Drafting Committee were based on a draft outline prepared by the Secretariat, which included the rights mentioned in various national constitutions,¹⁷ certain proposals submitted by the United States and the United Kingdom, and a draft declaration prepared by Professor René Cassin, of France. It was during this session that the idea took shape of making a distinction between a Declaration and a Convention on Human Rights. The United Kingdom draft which recommended a convention was transmitted to the Commission with certain suggestions.

The Commission itself, during its second session held in Geneva in December, 1947, drafted the full text of a Declaration—a text precise enough to be submitted to Member governments for comment.

Meeting again in May, 1948, the Drafting Committee re-drafted the text after taking into consideration the comments of Member governments, the proposals of the sub-commissions of the Commission on Human Rights, of the Commission on the Status of Women, of the Conference on freedom of information and of several non-governmental organizations. During its third session—May-June, 1948—the Commission discussed the revised draft for the last time.

It was as a result of all this organizational work and through this very thorough process of examination that the draft Declaration was produced.

But it was not enough, of course, that the text was based on the tremendous documentation accumulated at Lake Success; or that it derived from great historical documents—the heritage of many nations or that it was revised over and over again. The real task was to draft a Declaration with a true *international* spirit, a declaration combining the principles of the international protection of human rights and of the sovereignty of states—two basic elements of the Charter. The Declaration must be applicable in the present conditions of the world and be acceptable to all Members of the United Nations. In other words the Commission had to take into account the co-existence of different judicial systems and of the many ideas and ideologies which divide the world.

Furthermore, three dangers which all reformers find on the road

to progress, had to be avoided: exaggerated scepticism, based on the meek acceptance of the imperfections of men and societies; too great a sense of responsibility which calls for unimpeachable perfection in every detail; and overwhelming enthusiasm which wants to achieve fully and immediately an ideal untarnished by compromise.

Notwithstanding all these difficulties and obstacles, on the evening of June 18, 1948, three years after the adoption of the Charter and two years after the first meeting of the nuclear commission—the great effort came to its conclusion.¹⁸ The Commission adopted the draft declaration with no vote cast against it. Of the 18 members of the Commission 17 were present at the meeting. Twelve voted for the text. They were the representatives of Australia, Belgium, Chile, China, Egypt, France, India, Lebanon, Panama, United Kingdom, United States and Uruguay. The alternate for the representative of the Philippines stated that if he had the right to vote, he would vote in favor. The representatives of the U.S.S.R., the Byelorussian S.S.R., the Ukrainian S.S.R. and Yugoslavia abstained. The abstention of the last four was based mainly on the grounds that the text did not provide effective measures to fight fascism and nazism; that it failed to mention any concrete obligations on the part of the individual towards the state and that it ignored several proposals and amendments submitted by those delegations.

In a formal declaration, included as an appendix to the report of the Commission, the representative of the U.S.S.R. described these objections and set forth his own proposals.

When the results of the voting was announced, Mr. de Quijano, the representative of Panama, expressing the sentiments of his colleagues paid a sincere tribute to Mrs. Eleanor Roosevelt, the Chairman of the Commission, who had inspired its work with the same noble spirit which animated the late President Roosevelt.¹⁹

Two months later, the Economic and Social Council, meeting in Geneva, decided to transmit the Draft Declaration without comment to the General Assembly—meeting in its third session at Paris. This decision was taken in virtue of a previously adopted resolution according to which all the texts submitted by the Commission of Human Rights had to be transmitted to the General Assembly.²⁰

The Council's decision to transmit the draft to the General Assembly came after a general debate. During this discussion most of the 18 members offered detailed criticism and announced their inten-

tion to present amendments during the session of the General Assembly, but they emphasized the significance and the merits of this first draft of an International Declaration. They also expressed the desire that the General Assembly should adopt a Declaration without waiting for conclusion of the work on the Convention and on measures for implementation.

The stand taken, during the general debate, by the U.S.S.R. and Byelorussian S.S.R. conformed to the attitude adopted by the delegates of these countries in the Commission on Human Rights. But even while formulating numerous objections and qualifying the Declaration as weak, and totally insufficient in several regards, these representatives expressed, nevertheless, the conviction that in the end a text would be devised which would be able to serve effectually the program of democracy to improve the standard of living of millions of "little people" and to favor the fight against a renascent fascism and nazism.

This discussion did not carry the actual drafting of the Declaration any further. But, the opinions expressed by the different delegations served as guidance to the General Assembly in its considerations of further action. This was the view of Dr. Charles Malik, President of the Council, who, as Rapporteur of the Commission, had played a most important part throughout in the drafting of the Declaration.

CHAPTER VI

THE PREAMBLE OF THE DECLARATION

THE DRAFT INTERNATIONAL Declaration of Human Rights as thus submitted to the General Assembly consists of a preamble and 28 articles.²¹ The preamble which was drafted only after all the articles were formulated should not be thought of as an ornamental introduction. On the contrary, its importance equals that of the articles which follow. In six "whereases" the preamble explains the origins of the Declaration and the historic and social need for it. In its concluding part, the preamble defines the purposes of this Declaration, and the ways by which recognition and observance of these rights may be secured.

The preamble proclaims several principles. The first is that "the recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family" is the foundation of "freedom, justice, and peace." The disregard and contempt for these rights before and during the second world war resulted in barbarous acts. Thus, the fundamental freedoms were one of the supreme issues of the conflict. Under these circumstances "if mankind is not to be compelled as a last resort to rebel against tyranny and oppression," human rights should be protected by a "regime of law."

The preamble then cites the Charter's reaffirmation of faith in "fundamental human rights and in the dignity and worth of the human person," and recalls the Charter's emphasis on the necessity of promoting social progress and better standards of life "in larger freedom." When they signed the Charter, the Members of the United Nations pledged themselves to achieve, in co-operation with the Organization, the promotion of universal respect for and observance of human rights. Thus, a common understanding of these rights is of the greatest importance for the "full realization of this pledge."

Therefore this Declaration constitutes "a common standard of

achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member states themselves and among the peoples of territories under their jurisdiction."

The importance of this introduction is quite clear. A direct connecting link is established between the Declaration and the Charter. It gives the twenty-eight Articles which follow a political and moral context which would favor the voluntary acceptance and application of the principles of the Declaration by Member states. Indeed, we should not forget that even after the General Assembly adopts it by a two thirds majority, the Declaration will only become a "recommendation". The preamble therefore stresses the obligations accepted by the Member states and the importance of a common understanding of human rights, and invites every individual and organ of society to help in securing national and international recognition and observance of the Declaration.

Attention may also be drawn to certain characteristic points of the preamble: the expression "*human family*" which appears in the first paragraphs of this basic document; the link established between the respect for human rights and the *maintenance of peace*; the importance attached to the *economic, social and cultural* rights of man; the right of the peoples of non-self-governing territories under the jurisdiction of member states to benefit from the principles of the Declaration.

When it came to giving a name to the Declaration the delegates had a choice between "*International Declaration of Human Rights*" and "*United Nations Declaration of Human Rights*." The Commission adopted the first in order to emphasize the significance of the Declaration, not only to Member states, but to all countries.

The Commission hesitated also between: Declaration *of* Human Rights and Declaration *on* Human Rights. The Members favorable to the second formula observed that the Declaration did not contain all human rights, whereas those who preferred the first held that the document did mention all the rights recognized as fundamental at the time the Charter was drafted. This view was finally accepted.

CHAPTER V

THE TWENTY-EIGHT ARTICLES OF THE DECLARATION

LET us now examine the twenty-eight articles of the Declaration. They were drafted with such a care, after so much debate, that each word of the text is important. Any condensation might falsify the exact shade of meaning intended by the members of the Commission.

We will try, nevertheless, to present a general outline of the rights and liberties which, in the opinion of the authors of the Declaration, would constitute a "common standard of achievement for all peoples and all nations."

General Principles

The Declaration first proclaims certain general principles: "All human beings are born free and equal in dignity and rights." They should act towards one another in a spirit of brotherhood (Article 1).

The Declaration admits no discrimination between human beings. It allows no distinction of race, color, sex, language, religion, political or other opinion, property or other status, or national or social origin. Every member of the human family is equally the heir to these rights. (Article 2).

Rights of the Individual

These principles set forth, the Declaration enumerates the rights of the individual: every one has the right to life, liberty and security of person (Article 3). Slavery, involuntary servitude, torture, and cruel, inhuman or degrading treatment or punishment are forbidden (Article 4). Every one has the right to recognition everywhere as a

person before the law (Article 5.) The principle of equality of all before the law and the right to equal protection of the law without any discrimination is recognized (Article 6). It is specified that no one shall be subjected to arbitrary arrest or detention (Article 7) and that every one is entitled in full equality to a fair hearing by an independent and impartial tribunal (Article 8). An individual charged with a penal offence has the right to be presumed innocent until proven guilty in a public trial at which he has had all the guarantees necessary for his defence. No one shall be held guilty for anything which did not at the time it was committed constitute an offence by national or international law. (Article 9).

Many other individual rights are listed: freedom from unreasonable interference with privacy, family, home, correspondence and reputation (Article 10); the right to freedom of movement and residence within the borders of each state; the right to leave any country, including his own (Article 11); the right of asylum (Article 12); the right to keep or change one's nationality, it being understood that no one shall be arbitrarily deprived of his nationality or of the right to change it (Article 13). A special article mentions the right to marry which men and women of full age have; the right to found a family; equal rights of men and women as to marriage which shall be entered into only with the full consent of both intending spouses; protection of the institution of the family (Article 14). The next article recognizes the right to own property alone as well as in association with others and stipulates that no one shall be arbitrarily deprived of his property (Article 15).

Public Liberties

Having set forth the personal freedoms of the individual, the Declaration defines his civic freedoms: the right to freedom of thought, conscience and religion including freedom to change the religion or belief. Everyone has the right to practise his religion or belief alone or in community with others, in public or privately (Article 16). Freedom of opinion and expression is recognized (Article 17). It is specified that this right includes freedom to seek, receive and impart information. Every one has the right to freedom of assembly and association (Article 18),²² to take part in the government of his country, directly or through his freely chosen representatives, and to access to public employment (Article 19). The third paragraph of this last article states: “. . .

every one has the right to a government which conforms to the will of the people."

Economic, Social and Cultural Rights

The articles which follow define the economic, social and cultural rights. Through national effort and international co-operation in accordance with the organization and resources of each state, every one is entitled to the realization of these rights (Article 20). They include the right to work, to just and favorable conditions of work; protection against unemployment; the right to equal pay for equal work; to form and to join trade unions (Article 21); the right to a standard of living (including food, clothing, housing, medical care, social services) adequate for the health and the well-being of the individual and his family; the right to security in the event of unemployment, sickness, disability and old age; the right of the mother and child to special care and assistance (Article 22).

Every one has the right to education. Elementary and fundamental education shall be free and compulsory and there shall be equal access on the basis of merit to higher education. Education shall be directed to the full development of the human personality, to strengthening respect for human rights and fundamental freedom and to combating the spirit of intolerance and hatred against other nations and against racial and religious groups everywhere (Article 23).

Finally, every one has the right to rest and leisure (Article 24) and should be able to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement (Article 25).

Society and the Individual

But the individual exercises his rights in the framework of the community and there are no rights without duties.

Consequently in its concluding part, the Declaration stipulates, first that everyone is entitled to a good social and international order in which the rights and freedoms set forth can be fully realized (Article 26), and secondly that everyone has duties to the community which enables him freely to develop his personality. In the exercise of all these rights every individual shall be subject only to such limitations as are necessary to secure the respect for the rights

of others and the requirements of morality, public order and general welfare in a democratic society (Article 27).

The last article makes it clear that nothing in the Declaration implies any right of any state or person to engage in any activity aimed at the destruction of any of the rights prescribed herein (Article 28). This means that the community has the right to protect itself from those, for example, who use freedom of opinion and the right to freedom of association to suppress these rights, as the Nazi and Fascist states, did in the past.

This is not the place for a comment on the draft, to stress its merits or to dwell on its shortcomings. That is the privilege of public opinion and the competent organs of the United Nations as they work further on this document. But we might point out that the draft includes all the rights proclaimed by past declarations on human rights.²³ The authors have also taken into account the profound changes which have taken place since the American and French revolutions. New and important articles on economic, social and cultural rights are therefore included. That this draft will yet see many changes before it is adopted by the General Assembly is a foregone conclusion but, judging by the result so far achieved, it seems clear also that the final outcome will entirely justify the great hopes aroused in San Francisco and in the hearts of men and women all over the world.



CHAPTE VI

DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS

THE Draft Declaration of Human Rights was ready to be submitted to the General Assembly.

But this did not complete the work which began in 1946 for giving effect to the Charter provisions on human rights. As we have already indicated, the Declaration is only the first part of the future Bill of Rights, a great enterprise which is to include a Covenant and an agreed plan for implementation.

As far back as May 1946 the nuclear commission was wondering which form the Bill of Rights should take—whether it should be a resolution of the General Assembly, an appendix to the Charter to be embodied in the Constitutions of Member states, a convention between Member states or some other type of document. But the idea of drafting two texts—one a Declaration, also called a Manifesto, and a Convention, which would be called a Covenant, crystallized only during the discussions of the Drafting Committee of the Commission on Human Rights, June 1947.

It was then considered that the Declaration should proclaim the principles likely to exercise an influence of a moral nature on the governments and public opinion, a statement to be implemented voluntarily by the nations. On the other hand, the Covenant was to be a multilateral treaty which, after being adopted by the General Assembly in the form of a recommendation, would be ratified by Member states and become a part of international law and national legislation. During these discussions the drafting of several covenants was also considered, each one dealing with different groups of rights. Finally when the principle of drafting two texts was accepted, the Committee expressed the opinion that certain parts of a pro-

posals presented by the representative of the United Kingdom could serve as a starting point for the drawing up of a covenant.

In December 1947, during its second session held in Geneva, the Commission on Human Rights, on the recommendation of one of its working groups, agreed on the complete draft of a covenant. This was discussed and revised in May 1948 by the Drafting Committee in accordance with the observations and proposals presented by several governments, by certain organs of the United Nations, by specialized agencies and non-governmental organizations.

This draft, however, has not reached the decisive stage of the Draft Declaration which, as we noted, went through the same procedure. The draft covenant was not re-drafted or adopted by the Commission itself which was forced to give all its time to the completing of the Declaration. This is the reason why what we now have is only a preliminary version of a covenant, still in the making.

This draft of the future "Covenant of Human Rights" contains 28 articles which are not yet preceded by a preamble. Many of the articles are followed by additional texts proposed by different members of the Drafting Committee, the sub-commissions of the Commission on Human Rights by the Commission on the Status of Women and by some of the Specialized Agencies.

One characteristic of the preliminary draft is that it omits certain human rights, particularly economic, social and cultural rights, set forth in the draft Declaration. On the other hand certain other rights, particularly the rights of the individual and his rights to due processes of law are defined in much greater detail. Finally, certain limitations or qualifications of a general nature precede the listing of these rights which are often followed by limitations or proposals for limitations.

The omission of certain rights which occupy an important place in the Draft Declaration, is due to the fact that this Draft Covenant is envisaged as only the first of its kind, to be followed by others.

An article proposed by the United States declares that, "in agreeing to this Covenant the Contracting Parties recognize that there are other rights and freedoms which may be made the subject of future covenants or conventions."

The greater precision of the draft Covenant and the detailed limitations are explained by the fact that the purpose of the Declaration is to establish principles whereas the Covenant constitutes an

essentially legal instrument which imposes strict obligations on the signatory states.

Two examples will perhaps illustrate this difference.

Paragraph 1 of Article 4 of the Declaration states: "No one shall be held in slavery or involuntary servitude."

To this principle which the Declaration proclaims in two lines, the draft of the Convention dedicates an article of 18 lines—Article 8—divided in 3 paragraphs. The first paragraph is almost identical with Article 4 of the Declaration. The second specifically states that no one shall be required to perform forced or compulsory labor except as a consequence of being convicted of crime by a competent court. The third—divided in three sub-paragraphs—declares that the terms "forced or compulsory labor" shall not include: any service of a purely military character, or service imposed on conscientious objectors, any service exacted in case of emergencies or calamities threatening the community, any minor communal services considered as normal civic obligations. The list of these exceptions is not without stipulations to protect the individual placed in such situations, such as, for example, the provision to safeguard remuneration of his services. The article is followed by a text suggested by the International Labor Organization and a proposal made by the representative of the U.S.S.R.

To take another example, in the draft Declaration, Article 7 reads: "No one shall be subjected to arbitrary arrest or detention."

The corresponding text in the draft Convention—Article 9—has twenty-one lines with five paragraphs. The first one repeats the text of the Declaration. The second lists seven exceptions to the principle expressed in paragraph 1. Then follows an impressive list of all the possible limitations suggested by various governments. The Drafting Committee submitted its text on this article along with two other drafts: a text proposed by the delegation of the U.S.S.R. and a text proposed by the United States.

There is still another difference between a declaration and a convention. A declaration does not need special arrangements for accession by Member states. But a convention must devise proper procedure for this purpose. Article 23 states that the Covenant shall be open for accession not only to every Member state of the United Nations, but also to "a party to the Statute of the Inter-

national Court of Justice," which is open, in virtue of the Charter, to non-Member states. Moreover it is provided that the General Assembly could decide to allow other states to accede to the Convention. The Convention has to take into consideration the special situation of federal states. Article 24 provides that in respect to any articles which the Federal Government regards as wholly or in part appropriate for federal action, the obligation of the federal government shall, to this extent, be the same as those of parties which are not federal states. In respect of articles which the federal government regards as appropriate for action by the constituent states, provinces or cantons, the federal government shall bring such provisions, with favorable recommendation, to the notice of appropriate authorities.

To sum up, we might quote Dr. P. C. Chang, representative of China, and Vice-Chairman of the Commission, on Human Rights, during the meeting of June 18, 1948: "The Declaration of Human Rights could be said to represent the application of the Charter while the Covenant would be the application of the Declaration."

The relations between the Charter of the United Nations to the International Declaration of Human Rights, on one hand, and between this Declaration and the International Covenant of Human Rights, on the other hand, were examined in several speeches made during the general debate in the Economic and Social Council in August 1948.²⁴

CHAPTER VII

THE IMPLEMENTATION OF THE CONVENTION ON HUMAN RIGHTS

EVEN at an early stage of the discussion on Human Rights, when no distinction was made between a Declaration and a Convention, and only a single text was considered, the necessity to secure the practical implementation of the principles established by such a document was generally recognized.

In his opening address to the nuclear commission, in April 1946, M. Henri Laugier, Assistant Secretary-General of the United Nations, stressed the need for a "machinery of observation which will find and denounce the violations of the rights of man." The nuclear commission made several precise recommendations on this subject. In June 1946, the Council invited the permanent Commission on Human Rights, just nominated, to present, at an early date, appropriate suggestions to secure effective implementation.

In these circumstances, it was natural that the decision taken in June 1947 by the Drafting Committee to prepare not only a draft Declaration, but also the text of a Convention, stimulated the study of appropriate measures necessary for the practical implementation of the future convention. The Drafting Committee therefore formulated a series of proposals which it submitted to the full Commission. Then, in December 1947, one of the working groups established by the Commission undertook a more complete examination of implementation and drafted a report in which all the legal aspects, and all the ways and means of implementation were carefully studied. However, no decision was taken by the Commission. Although the Economic and Social Council noted again during its February-March 1948 session the importance of implementation, neither the Drafting Committee, during its May 1948 session, nor

the Commission, during its May-June 1948 session, were able to complete the work begun by the Drafting Committee.

Thus, no general draft, or text of articles on implementation exist. Moreover, the conclusions of the members of the working group do not allow us to prejudge the future decisions of the Commission, of the Economic and Social Council or the General Assembly. The working group indeed had only six members and a small number of observers, and the representative of the Ukraine, the only member from a Slav country, left after the opening meeting.

Nevertheless, the United Nations already has an important file on the subject, consisting of the report of the working group, and of the observations and proposals presented by various delegations, specialized agencies and non-governmental organizations. This we may survey briefly.

Starting with a paper prepared by the Secretariat, the Working Group examined alternative possibilities and procedures for implementation of the future Convention: educational work to create an atmosphere favorable to the Convention; passing of national laws to enforce the Convention; the right to petition international bodies; and the right of intervention by such international organs.

Questions arising out of such international intervention were carefully studied. What will be the functions of the General Assembly, of the Economic and Social Council and of the Commission on Human Rights in such matters? In 1946, for example, the Nuclear Commission assigned an important share of this responsibility to the Commission on Human Rights. Neither did the Working Group overlook the part which, should the occasion arise, the Security Council might play. Furthermore the establishment of special organs was considered; local organs of the United Nations functioning in certain countries; international organs to examine petitions, to exercise the functions of conciliation or to control even more directly the implementation of the Convention. An International Court of Human Rights was proposed at the start of the discussion in the Human Rights Commission by the representative of Australia, and the possible role of the International Court of Justice was also examined.

Finally certain proposals were formulated by the working group. These favor recognition of the right of petition by individuals and associations; the establishment of an International Committee of Conciliation and of an International Court of Human Rights.

Proposals offered by governments cover much the same ground.

Australia, in a detailed draft, has proposed the establishment of an International Court of Human Rights. France suggests a commission of implementation elected for three years by the General Assembly, its main functions being to examine requests from governments and individuals. General and elastic procedures are recommended by China and the United States to deal with disputes between states on violations of the Convention. They suggest the establishment of a Committee to deal with questions submitted by the interested parties after the failure of direct negotiations between them. India proposed the extension of the powers of this proposed committee to include the right to receive petitions from individuals, organizations and groups concerning a community or body of persons generally.

On all these proposals the stand taken by the U.S.S.R. and the other Slav countries was that measures of implementation could be studied only after it was clear what was to be implemented—in other words the text of the Convention. These representatives opposed proposals which might establish a system of “international pressure” and which might become “an instrument of interference” in the internal affairs of states undermining their sovereignty and independence.

This brief account will give an idea of the discussions ahead before agreement is reached on implementation of the Convention. This part of the work might well prove the most difficult because all states will naturally want to scrutinize most carefully any machinery which would impose legal obligations on them.

At the meeting which adopted the draft Declaration, the Commission agreed that it would take up the question of implementation at the beginning of 1949. Following a wish expressed by the representative of the U.S.S.R., the Commission decided further to undertake simultaneously the drafting of the Convention and the articles on implementation.

During the general debate in the Economic and Social Council—August 1948—the delegates touched only lightly on the question of implementation, before transmitting to the General Assembly, without change the texts concerning this problem. The attitude taken by the delegates at this session, corresponded to those taken during previous discussions varying from the Australian formula asking the

establishment of an International Court to the rejection by the U.S.S.R. of any solution which might prove contrary to the sovereignty and independence of Member states.

In concluding this review of the record of the United Nations to evolve the world's first International Bill of Human Rights we might note that this delicate work has been pushed ahead with great tenacity of purpose. While the draft Declaration awaits full and final action, the preparatory work on the two other parts of the Bill will go forward in the Commission and the Council.

CHAPTER VIII

CONVENTIONS ON FREEDOM OF INFORMATION AND OF THE PRESS

THE urgent task of drafting an International Bill of Human Rights did not prevent action on specific freedoms. Very early in the history of the United Nations work was begun on freedom of information and of the press; the prevention of discrimination and the protection of minorities; improvement of the status of women and the protection of human rights in non-self-governing territories.

Freedom of information and of the press is not specifically mentioned in the Charter. But the discussions in San Francisco made it quite clear that this freedom should occupy a privileged position in the hierarchy of fundamental rights and freedoms.

This explains why the Preparatory Commission meeting in November-December 1945, and the Economic and Social Council, during its first session in February and March 1946, entrusted the future Commission on Human Rights with the drafting of proposals concerning international declarations or conventions on freedom of information. A special Sub-Commission was created²⁷ for this purpose. In December 1946, the General Assembly decided to call an international conference on freedom of information and of the press. Then, at its next session in the fall of 1947, the Assembly discussed the political aspects of freedom of information in long and sometimes vehement debate. Let us review briefly the results of these activities.

During its first session, held in May-June 1947, the Sub-Commission on Freedom of Information and of the Press did a considerable amount of preparatory work for the Conference. During its second session—March and April 1948—the Sub-Commission drafted several articles for the Declaration and the Convention of Human

Rights and examined what rights, obligations and practices should be included in the concept of freedom of information. As to the discussions which developed in the Assembly and its Committees during the second session (September 16-November 29 1947) they resulted in the adoption of two important resolutions. The first condemned all forms of war propaganda and other incitements to war, and, the second, condemned the diffusion of false or distorted reports. It enumerated appropriate steps which should be taken through all media of information in order to maintain the peace.²⁸

But the most important result was achieved by the United Nations' Conference on Freedom of Information on the basis of these discussions.

The Conference met at the European Headquarters of the United Nations, Geneva, between March 23 and April 21, 1948, under the chairmanship of Ambassador Carlos P. Romulo, delegate of the Philippines. Delegations representing 54 governments—several from non-Member States—observers from three other governments, and observers and consultants from inter-governmental and non-governmental organizations participated in the proceedings.

Not only diplomats and jurists but also experts with great experience in the fields of information and transmission of news took part in the work of the Conference and its committees. On the basis of these deliberations, the Conference adopted and submitted to the Economic and Social Council three draft conventions.²⁹

The first draft Convention deals, in fifteen articles, with the gathering and international transmission of news. It binds the Contracting States to permit and encourage foreign correspondents to have the widest possible access to news on the same basis as the national correspondents. It provides among other things that censorship shall not be applied except in situations involving the security of the state. A brief preamble which expresses the desire of Contracting States "to implement the right of their peoples to be fully informed," and to "improve understanding between their peoples through the free flow of information and opinions," emphasizes the purpose of this convention.

The second draft convention, made up of ten articles, seeks to institute an international right to correct news, a right which, as the preamble reminds us, is already embodied in the legislation of a large number of States. The draft obliges a Contracting State,

to facilitate, on the request of another Contracting State, the dissemination of corrections to false or distorted facts likely to injure relations of a Contracting State with other Contracting States. Article 3—a particularly important provision—stipulates that if any Contracting State fails to fulfil its obligation, the Secretary-General of the United Nations shall give appropriate publicity to the “communiqué” of the Government exercising the right of correction.

The third draft Convention deals more directly with the concept of freedom of information or to be more exact, with “the free interchange of information and opinions.” In the national and international sphere, this freedom as the preamble emphasizes, is “a fundamental human right, essential to the cause of peace and for the achievement of political, social and economic progress.”

This draft Convention, with its fourteen articles, secures to all the nationals of a Contracting State and to nationals of every other Contracting State residing lawfully within its territory, freedom to impart and receive information and opinions, without governmental interference. These freedoms may be subject to necessary restrictions on grounds of national safety and other matters clearly defined by law. The draft defines the duties of organizations employed in the dissemination of information to the public to help to maintain peace; to facilitate the solution of the economic, social and humanitarian problems of the world and to help promote respect for human rights. A very important article stipulates that any dispute between two or more Contracting States concerning the interpretation of the application of this Convention shall be referred to the International Court of Justice.

The adoption of these three conventions did not exhaust the agenda of the Conference on Freedom of Information and the Press. Not only did the Conference formulate some articles for the Declaration and Convention of Human Rights, but in addition, it adopted several resolutions recommending practical measures to remedy the inadequate production of newsprint, to consider an International Institute of Press and Information, to adopt a system of social security for news personnel, to limit censorship and to counteract the spreading of distorted reports which promote hatred or prejudice against States.

The Final Act of the Conference on Freedom of Information, which registers the results of the Conference, was discussed by the

Economic and Social Council at its July-August 1948 session. It was examined by the Council's Human Rights Committee,³⁰ which after full debates, revised the first of the three draft conventions. The two other drafts which were discussed only at plenary meetings of the Council were not changed. The revised text of the first draft and the two other non-revised drafts were then transmitted to the General Assembly.

The most important changes made in the first draft Convention on the Gathering and International Transmission of News—are as follows: the phrase "foreign correspondent" is replaced by that of "correspondent of another contracting state." The expression "national military security" is replaced by "national security"; in the article which foresees the accession of non-self-governing territories, the authority of the Contracting States responsible for the international relations of those territories is strengthened.

If it is true that agreement did not always prevail in Geneva, that the three drafts of the Convention were not adopted unanimously, that the U.S.S.R. and other states declared against the texts and that opposing views were expressed again at the Economic and Social Council in July-August 1948,³¹ it is nevertheless a fact that the majority of the participants of the Conference considered it a success, although much work and discussion lies ahead before the agreed principles find their place in international law and usage. It is now up to the Assembly to take the final decisions.³²

"The United Nations may justly take pride in the conduct and achievements of the Conference on Freedom of Information," said General Romulo, the President, in summing up the results.

"As a result of its labors, a practical program of freedom of information on the international plane has been formulated, providing for positive guarantees to the right of all men in all countries to receive and impart news and opinion, and at the same time defining the responsibility of the press to society and to the cause of international peace. This has been done, for the first time in history, with the participation and sanction of governments, in response to a universal desire. The Conference, working on an important segment of the United Nations program for the protection and advancement of human rights and fundamental freedoms, has thus dramatically demonstrated the efficacy of negotiation as a means for the solution of international problems.

"The work of the Conference cannot as yet be fully assessed," General Romulo continued. "Three draft conventions and more than two score resolutions were approved with the aim of ensuring the free flow of information within nations and across their boundaries. The General Assembly's resolution denouncing incitement to war was endorsed, and the right of governments to correct false or distorted reports recognized. A continuing machinery was provided, with the recommendation that the Sub-Commission on Freedom of Information and of the Press be allowed to continue its work for three more years, in order to help put into effect the agreement made and also to explore the possibilities for the further extension of freedom of information, rightly described as the touchstone of all the freedoms to which the United Nations is dedicated.

"The validity of international agreements, however, depends in the final analysis upon the sincerity of the signatory nations and their determination to make them work.

"Herein lies one of the most hopeful aspects of the Conference on Freedom of Information. In this Conference the peoples of the world, through their governments and the representatives of their various media of mass communication, have solemnly pledged themselves to translate into reality the concept of maximum freedom of information for all men and all nations, without distinction as to race, sex, language or religion. Considering the earnestness and goodwill with which the pledge was made, it is reasonable to expect that every effort will be made to carry it out."

CHAPTER IX

DEFINITIONS AND RESOLUTIONS CONCERNING THE PREVENTION OF DISCRIMINATION AND THE PROTECTION OF MINORITIES

ALTHOUGH the Charter does not enumerate the human rights and fundamental freedoms for which it demands "universal respect", it does emphasize that these rights and freedoms should be respected "without distinction as to race, sex, language or religion."

From this repeated emphasis of the Charter stemmed all the efforts of the United Nations against discrimination and for the protection of minorities.

Once more, it was the Preparatory Commission which took the initiative to organize these efforts and once more the Economic and Social Council at its May-June 1946 session—empowered the Commission on Human Rights to establish a special Sub-Commission on Prevention of Discrimination and Protection of Minorities, after deciding against the creation of two separate sub-commissions, one for the protection of minorities, another for the prevention of discrimination.³³

During its first session (November 24-December 6, 1947) the Sub-Commission entrusted with the study of principles in these two fields, submitted a report to the Commission on Human Rights with several recommendations or proposals. The prevention of discrimination, stated the Sub-Commission, is the prevention of any action which denies to individuals or groups of people equality of treatment which they may wish. The protection of minorities, explained the Sub-Commission, is the protection of non-dominant groups which, while wishing in general for equality of treatment with the majority, wish for a measure of differential treatment in order to preserve the basic char-

acteristics which distinguish them from the majority of the populations. That differential treatment should, however, be in the interests of the contentment and the welfare of the community as a whole. The characteristics meriting such protection are race, religion and language. In order to qualify for protection a minority must owe undivided allegiance to the government of the state in which it lives and its members must also be nationals in that state.

The Sub-Commission also considered the rights of petition and discussed the means of implementing the principles it was formulating. It also drafted several texts for use in the Declaration and the Convention on Human Rights.

At the Sub-Commission's recommendation, the Economic and Social Council, during its sixth session asked for studies on the causes and characteristics of discriminatory measures; the validity of treaties and declarations concerning the protection of minorities dating back to the time of the League of Nations; an educational program to be undertaken with UNESCO to encourage throughout the world the spirit of tolerance, etc.

In order to facilitate the Sub-Commission's discussions the Secretariat drafted a memorandum in which the system of international protection of minorities as practiced by the League of Nations was extensively studied.

It may be noted here that though much work was done by the League in this field, the protection of minorities was implemented only in a restricted number of states. The principle of protection did not derive from the League Covenant but from special arrangements. On the contrary the work of the United Nations is for the universal implementation of a basic principle of the Charter itself.

This is emphasized by a resolution of the General Assembly. Adopted on November 19, 1946, this resolution declared "that it is in the higher interests of humanity to put an immediate end to religious and so-called racial persecution and discrimination, and calls on the governments and responsible authorities to confirm both to the letter and to the spirit of the Charter of the United Nations, and to take the most prompt and energetic steps to that end."

In this connection another resolution of the Assembly may be recalled, its decision on the question of the treatment of Indians in South Africa. After prolonged discussions on the request made by the Gov-

ernment of India regarding the treatment of Indians in the Union of South Africa; the Assembly adopted, on December 8, 1946, a resolution expressing the opinion that the treatment of Indians in the Union should be in conformity with the relevant provisions of the Charter. During its 1947 session, the General Assembly discussed this problem once more. On this occasion, however, the Assembly did not adopt a recommendation as the draft resolutions submitted failed to secure the necessary two-thirds majority. The question was, however, again included in the agenda of the third session of the Assembly.³⁴

The two resolutions mentioned indicate that, to the United Nations the prevention of discrimination and the protection of minorities, constitutes a Charter obligation which all Member states should respect even in the absence of any Special Conventions which may later be adopted.

But, as we see in the next Chapter, the work of the organization in this field is related to another very important effort: the prevention and punishment of crimes against humanity.³⁵

CHAPTER X

CONVENTION ON THE CRIME OF GENOCIDE

WHILE trying at its April-May 1946 session to establish a program of international protection of human rights, the nuclear commission considered the question of eventual punishment of crimes under international law—crimes against mankind.

When the Economic and Social Council received this suggestion, at its May-June 1946 session, it invited the Secretariat to gather and publish information concerning human rights resulting from the trials of war criminals, quislings and traitors—particularly the Nuremberg and Tokyo trials.

Thus began the work of the United Nations on the new concepts of international law, developed as a result of the war. The Assembly itself, at the end of 1946, gave a considerable impetus to these activities. "To initiate studies and make recommendation for the purpose of encouraging the progressive development of international law and its codification" is, according to Article 13 of the Charter, one of the functions of the Assembly. Accordingly the Assembly established on December 11, a committee on the Codification of International Law. In another resolution passed on the same day, the Assembly affirmed the principles of the Charter and Nuremberg Judgment and directed the new committee to "treat as a matter of primary importance plans for the formulation of the principles recognized in the charter and the judgment and to proceed with its work, in the context of a general codification of offenses against the peace and security of mankind."³⁶

At its next session the Assembly, having studied the report of the Committee on Codification, decided to entrust the promotion of the progressive development of international law to a new International Law Commission to begin functioning at the end of 1948.

But pending the commencement of this long-term work, the Assem-

bly—also on the December 11, 1946—took action on a particularly odious international crime, although it does not specifically belong to the category of “war crimes.” On the initiative of the delegations of Cuba, India and Panama, the Assembly adopted a resolution condemning the “crime of genocide” defined as “a denial of existence of entire human groups, as homicide is the denial of the right to live of individual human beings.” This crime the Assembly resolved should be punished as a matter of “international concern” and as a crime under “international law.” For the commission of genocide “principals and accomplices, whether private individuals, public officials or statesmen, and whether the crime is committed on religious, racial, political or any other grounds—are punishable,” the Assembly declared. And to prevent and repress this monstrous crime which the Nazis and Fascists the Assembly requested the Economic and Social Council to undertake the necessary studies with a view to drawing up a draft Convention of Genocide.³⁷

This was the origin of new studies and discussions whose scope and intensiveness might be compared with the deliberations on the Declaration of Human Rights.

The Economic and Social Council first discussed the Assembly’s directive. Then, at its request, the Secretariat drafted a Convention which was transmitted to the Governments of the Member states and to the Committee on Codification of International Law. Again, at the end of 1947, the Assembly reaffirmed its resolution of the preceding year, in a further resolution which declared that “genocide is an international crime entailing national and international responsibility on the part of individuals and States.” The next stage was reached when the Economic and Social Council set up in January-February 1948, a new *ad hoc* Committee to draft a revised text of the proposed Convention.³⁸

This *ad hoc* Committee on genocide met at Lake Success from April 5 to May 10, 1948. It took into consideration the discussions which had taken place since 1946, the Secretariat draft and the observations of several governments and non-governmental organizations. It then drafted a new text which was submitted to the Economic and Social Council in July 1948. The Council was then to submit it to the third session of the Assembly.

Here in outline are the principal provisions of the draft convention.

The preamble, as well as Article 1, repeats the definitions formu-

lated by General Assembly resolutions. The draft then notes that the International Military Tribunal at Nuremberg has punished certain persons who had committed "similar acts" to those which the Convention aims at punishing. The contracting parties are then obligated to prevent and punish genocide under the terms set forth in the 19 articles which follow.

The Convention distinguishes between what has been called "physical" genocide and "cultural" genocide. In the first category comes the destruction of national, racial, religious or political groups by killing members of the group, impairing their physical integrity, inflicting on them measures or conditions of life aimed at causing their death or imposing measures intended to prevent births within the group (Article 2).

The second category of genocide includes any act committed with the intent to destroy the language, religion, or culture of a national, racial or religious group, a definition which comes closer to the conventional conception of the protection of minorities. The Convention enumerates the following acts as examples of "cultural" genocide: prohibiting the use of the language of the group in daily intercourse or in schools, or the printing and circulation of publications in the language of the group; destroying or preventing the use of libraries, museums, schools, historical monuments, places of worship or other cultural institutions and objects of the group (Article 3).

The draft declares as punishable, not only the commission of genocide but conspiracy to commit, and direct incitement in public or in private, whether such incitement be successful or not, and the attempt to commit or complicity in any of the acts enumerated above (Article 4).

Those guilty of genocide, shall be punished whether they are members of governments, public officials, or private individuals (Article 5).

The draft Convention calls upon the contracting parties to undertake to enact the necessary legislation to give effect to the provisions of this Convention (Article 6). The persons charged with genocide or any of the other acts enumerated above shall be tried by a competent tribunal of the state in the territory of which the act was committed or by a competent international tribunal (Article 7). A party to this convention may call upon any competent organ of the United Nations to take such action for the prevention and suppression

of genocide as may be appropriate under the Charter. A party to this Convention may also bring to the attention of any competent organ of the United Nations any case of violation of this Convention (Article 8). Extradition of those guilty of genocide is provided for because genocide is not a "political" crime (Article 9). Disputes between the contracting parties relating to the interpretation or application of this Convention shall be submitted to the International Court of Justice (Article 10). The Convention shall come into force following the receipt by the Secretary-General of the United Nations of not less than twenty instruments of ratification or accession.³⁹

Throughout the discussions on genocide it was obvious that memory of the atrocious crimes committed by the Nazis, the Fascists and their accomplices spurred the action of the delegates. But as the representatives of China, among other delegates recalled gas chambers and mass executions are not the only means of extermination of human groups. Did not the Japanese use narcotics to undermine the health and the spirit of the Chinese people? Consequently, the Commission on Narcotic Drugs, one of the subsidiary organs of the Economic and Social Councils, was asked to consider this aspect of the problem. The Commission adopted, at its May 1948 session, a resolution asking formally that genocide by narcotic drugs be prohibited by the Convention.

The draft Convention gives precise definitions of what should be considered as a crime and who should be treated as a criminal but is less precise in other parts. In these parts it mirrors the differences of opinion within the Drafting Committee. Of only seven members on the Committee, five, China, United States, France, Lebanon and Venezuela, adopted the text, while the U.S.S.R. voted against and Poland abstained. Further, some members of the majority expressed reservations on certain articles.

Nevertheless, the Commission on Human Rights, discussing briefly the Convention on the day it adopted the draft Declaration of Human Rights, felt that the draft would provide a basis for final action by the Economic and Social Council and the General Assembly. The representative of the U.S.S.R., however, took the position that the draft was inadequate. But there was no doubt or difference on the necessity of taking every possible step to prevent and punish the crime of Genocide.

This basic agreement was evident too in the general debate which

took place in the Economic and Social Council in August 1948. Several delegates, nevertheless, showed little inclination to include "cultural" genocide in the Convention. Those crimes, they felt, belong to the field of the protection of minorities which should be assured by other means. Opinion was also divided on the desirability of reference to an International Court as proposed by the draft Convention. The representatives of Eastern European States favored the inclusion of "cultural" genocide in the Convention but they opposed resort to international jurisdiction.⁴⁰ Finally, the draft Convention was transmitted without change to the General Assembly, meeting this time in Paris, on the continent which is still haunted by the memories of the greatest crimes in human history.



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CHAPTER XI

RESOLUTIONS AND SURVEYS ON THE STATUS OF WOMEN

THE Charter of the United Nations in calling for the promotion of respect for human rights and fundamental freedoms specifies: "... without distinction as to sex." Furthermore, the first lines of the Preamble reaffirm the faith of the peoples of the United Nations in the "equal rights of men and women." Further, it invites the United Nations to serve as an example, stipulating that the Organization "shall place no restriction on the eligibility of men and women to participate in any capacity under conditions of equality in its principal and subsidiary organs" (Article 8).

These guiding principles gave an impetus to important work to achieve for women all over the world full equality of status.

These efforts were greatly stimulated by the General Assembly which, on the initiative of the Danish delegation, adopted, on December 11, 1946, a resolution inviting all Member states, which had not already done so, to "adopt measures necessary to fulfill the purposes and aims of the Charter . . . by granting to women the same political rights as to men."

As a consequence of this resolution, the Secretariat transmits periodically to all Member states complete data on the political rights of women, in different countries; particularly on their suffrage rights and eligibility to hold public office. The Economic and Social Council stated, at its February-March 1948 session, that this procedure should be followed as long as women all over the world do not enjoy the same political rights as men.

In the meantime, the Economic and Social Council inaugurated, on the basis of recommendations made by the Preparatory Commission,

methodical action concerning all the problems involving the status of women. It set up a nuclear sub-commission which was soon converted to a full commission. This commission has the responsibility of preparing recommendations and reports to the Economic and Social Council for promoting women's rights in the political, economic, social and educational fields. The Commission was empowered to make recommendations to the Council on urgent problems requiring immediate attention.⁴¹

With these instructions, the Commission on the Status of Women accomplished during its two sessions held in February 1947 and January 1948, a considerable amount of work. With the help of information collected by the Secretariat, it examined in detail the present situation of women in the world. For this purpose, it prepared questionnaires to be sent to Member governments. With this and other information annual reports were to be prepared. The Commission took appropriate measures to assure that all problems relating to the status of women were fully considered by the organs of the United Nations dealing in one way or another with human rights and fundamental freedoms. This includes the Trusteeship Council, which is entrusted by the Charter with the task among others of encouraging respect for human rights in the trust territories. The Commission recommended the establishment of close co-operation with the Specialized Agencies and the non-governmental organizations, and particularly with the Inter-American Commission of Women. The Commission considered the organization of regional conferences and the delegation of its members to visit several countries in order to publicize its activities and aspirations and to gather useful information.

The contribution of the Commission to the drafting of the Declaration and the Covenant on Human Rights was also considerable.

Nothing can give a better idea of the scope of these efforts than the impressive list of resolutions adopted at the last session of the Commission and transmitted to the Economic and Social Council: resolutions on the political rights of women; on participation of women in international and national activities of governments with the same opportunities as men; resolutions against discrimination in the fields of nationality, marriage, divorce and domicile; and on equal rights with men as to employment and remuneration.

On the basis of these texts, the Economic and Social Council, during

its February-March 1948 session, adopted two resolutions on the political and cultural rights of women and, during its July-August 1948 session, another series of resolutions for the purpose of ensuring to women in all countries equal political rights with men, equal eligibility for public office and equality in the fields of education and social rights. To achieve these objectives the Council called for the co-operation of Member states, of the Secretariat and of public opinion.

One of the Council's resolutions provoked lively discussion. It condemned legislation forbidding marriage between persons of color, race, nationality or religion and all legislative or administrative measures denying to a woman the right to leave her country of origin and follow her husband. This last provision was opposed by the representative of the U.S.S.R. who said that it concerned only a few isolated cases and constituted an infringement on sovereign rights.

At first glance, the Commission on the Status of Women seems to be only a small part of the intricate machinery built by the United Nations to secure a system of universal protection of human rights and freedoms. Like other functional commissions of the Economic and Social Council, this Commission acts as an expert body to formulate proposals for action by the Council. But in doing so, the Commission keeps under constant review the whole field of its scope and is rapidly becoming the center of all international activity to advance the status of women. With the aid of the Secretariat—which has a separate section on the Status of Women—it is also becoming the world focus of information on the subject. Its discussions and recommendations act directly as stimuli on women's organizations in Member countries as their work and views in turn influence the Commission. As one member of the Commission put it: "What is needed now is that women take advantage of these opportunities." Already there is encouraging evidence that they are going to do so.⁴²

CHAPTER XII

PROTECTION OF HUMAN RIGHTS IN NON-SELF-GOVERNING TERRITORIES

IN DEALING with the protection of human rights in non-self-governing territories we have to distinguish between territories brought under the Trusteeship System of the United Nations and those, more numerous, which are outside that system.

As to the former, the Charter, as we may recall, proclaims that one of the basic objectives of the Trusteeship System is to encourage in those territories "respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion" (Article 76).

What is being done to achieve this purpose? Following the provisions of the Charter, the administering authorities of trust territories present annual reports which are examined by the Trusteeship Council. These reports deal with the political, economic, social and educational advancement of the inhabitants of each trust territory and are drafted upon the basis of a questionnaire formulated by the Trusteeship Council. Further, the Charter gives to the inhabitants the right to address petitions to the United Nations which are also examined by the Trusteeship Council "in consultation with the administering authority." Moreover, the Charter provides "for periodic visits to the respective trust territories at times agreed upon with the administering authority" (Article 87).

In exercising these functions the Trusteeship Council adopted on April 25, 1947, a questionnaire of which thirteen questions—from 136 to 148—dealt with the protection of human rights, in particular with freedom of opinion, freedom of thought and conscience, freedom of the press, religious freedom, missionary activities, and the right of petition. Four questions—132 to 135—specifically ask for information

on recent progress to improve the status of women; the legal capacity of women (married and unmarried); and women's rights and opportunities for employment and for government service. Many other questions concern the economic and social position of the inhabitants of trust territories and therefore can be considered as involving human rights and freedoms. This questionnaire, which is yet provisional, was submitted by the Trusteeship Council to the Economic and Social Council—a procedure envisaged by the Charter (Article 91)—for the latter's comments and recommendations.

The Economic and Social Council transmitted this document to its subsidiary organs among others to the Commissions on Human Rights and on the Status of Women. The first Commission stated that proposals would be formulated on the subject once the Declaration on Human Rights is adopted. The Commission on the Status of Women suggested several modifications.

On the same day—April 25, 1947—on which the questionnaire was adopted, the Trusteeship Council took action on another matter of great significance. It adopted its own rules of procedure of which 18 articles concern the right of petition. According to these rules petitions may be submitted in writing or orally. An *ad hoc* Committee may be appointed to examine these petitions. The rules also established procedure for the organization of periodic visits and special missions to the Trust Territories with the purpose of "achieving the basic objectives of the International Trusteeship System," one of which as we have noted is to ensure human rights and fundamental freedoms.

We see therefore that the Charter has created an international system for the protection of human rights in trust territories, a system to which almost all the organs of the United Nations contribute: the Trusteeship Council—the Economic and Social Council, the General Assembly, the Secretariat, and even the Security Council which, in the case of Trust Territories designated as "strategic," performs the trusteeship functions of the United Nations.

On non-self-governing territories, the Charter made a solemn declaration—the celebrated Article 73. This declaration does not mention the protection of human rights and fundamental freedoms. But, according to it, the Members of the United Nations responsible for the administration of such territories accept as a "sacred trust" the obligation "to ensure, with due respect for the culture of the peoples concerned, their political, economic, social, and educational advancement, their just treatment, and their protection against abuses." The

Article also calls upon the Members "to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions." It is quite evident that such obligations, in a large measure, come into the framework of the protection of human rights and fundamental freedoms.

What action is taken to implement these provisions? The last clause of Article 73, clause (e), provides that the administering powers shall transmit regularly to the Secretary-General for information purposes (subject to such limitations as security and constitutional considerations may require) statistical and other information of a technical nature relating to economic, social and educational conditions in the territories for which they are respectively responsible.

Following a recommendation of the General Assembly, on December 1, 1946, the Secretary-General submits each year to the Assembly the "analyzed and classified" information thus transmitted by the administering Members. This is to aid the Assembly in its consideration of the information.

A further development of this procedure came on November 3, 1947, when the Assembly constituted a Special Committee on Information on Non-Self-Governing Territories. This Committee was composed of the Members of the United Nations transmitting information and an equal number of Members elected by the General Assembly "on as wide a geographical basis as possible." The Assembly also approved a standard form for the guidance of Members in the preparation of information, and this form specially mentions human rights and several judicial, economic, social and educational problems, which, directly or indirectly, are connected with them. The Secretary-General was authorized, under certain conditions, to use additional data in the summaries and analyses prepared for the Special Committee. The General Assembly also welcomed voluntary transmission of information regarding the development of self-governing institutions in the non-self-governing territories. A Special Committee examined information received in 1948 and reported on it to the Assembly's Third Session.

CHAPTER XIII

SUGGESTIONS AND ATTEMPTS MADE TO SOLVE CERTAIN SPECIAL PROBLEMS

(HUMAN RIGHTS IN THE PEACE TREATIES, CONDITION OF
STATELESS PERSONS, LOCAL GROUPS, COMMUNICATIONS
ADDRESSED TO THE UNITED NATIONS)

IN THE previous chapters, we have given a general account of the work of various organs of the United Nations to implement the Charter purposes on human rights and fundamental freedoms. It remains now only to note steps taken to meet certain specific situations.

On the recommendation of the Nuclear Commission of Human Rights, the Economic and Social Council decided, at its May-June 1946 session, that, pending the adoption of an international Bill of Rights the general principle should be accepted that international treaties involving basic human rights, including to the fullest extent practicable the treaties of peace, should conform to the standards set forth in the Charter.

This decision, communicated to all the Member States, was in accordance with the ideas expressed at the San Francisco Conference.

The drafting of the peace treaties with Italy, Hungary, Rumania, Bulgaria, and Finland came to a conclusion at the end of a conference held in New York by the Foreign Ministers of the U.S.A., France, the United Kingdom, and the U.S.S.R. on December 12, 1946, on the morrow of the General Assembly's session. The texts of these treaties published on January 17 included stipulations on the protection of human rights and fundamental freedoms inside the five countries; stipulations which were binding equally on the territories yielded by Italy to other nations and on the Free Territory of Trieste. These stipulations quoted the very terms of the

Charter; they even specified certain rights and freedoms which the Charter did not expressly mention, freedom of expression, freedom of the press, freedom of opinion, religious freedom and right of assembly. What is more the treaties with Hungary and Rumania contain special stipulations forbidding all discriminatory measures against minorities and calling for reparations to compensate the victims of such measures in the past.⁴⁴

On another post-war problem, the Commission on Human Rights called for specific action: the question of stateless persons who had increased greatly in number as a result of the war. During its December 1947 session, the Commission asked that, pending the conclusion of conventions on nationality, early consideration be given by the United Nations to the legal status of persons who do not enjoy the protection of any government, and to measures insuring the legal and social protection of such persons. The Commission stressed the desirability of issuing official identity papers for such stateless persons. These proposals, resulted in detailed studies by the Secretariat which will be discussed by the Economic and Social Council.

All these varied activities of the United Nations on Human Rights cannot be carried on without full and accurate information. One of the first steps taken to provide such information was the publication by the Secretariat of a Year Book on Human Rights, comprising invaluable documentation from national and international sources.⁴⁵

Of even more general interest is the formation of "information groups" and "local committees on human rights," and the utilization of communications on human rights received by the United Nations.

As to the creation of "information groups" and "local human rights committees" once again the initiative came from the nuclear commission, which drew the attention of the Economic and Social Council to this matter. The Council—though some of its Members were ready to confer upon such groups and committees larger functions—limited itself, during its May-June 1946 session, to proposing that the Member States examine this suggestion with a view to the co-operation which these organizations might give to the Commission of Human Rights. As a consequence of this proposal, the Netherlands, Turkey, the Dominican Republic, Haiti, Norway and

the United States decided to establish such groups and committees or to ask already existing associations to fulfill these functions. The governments of some countries expressed their interest in the proposal—others reserved their opinion arguing that it was preferable to define the scope of such groups and committees when measures for the implementation of a Convention are being considered. During its May-June 1948 session, the Commission of Human Rights came to the same conclusion.

Numerous communications concerning the protection of human rights and fundamental freedoms are coming in to Lake Success; wishes, complaints, and demands for intervention, from all over the world by individuals or groups.

How should these communications be dealt with pending final decision on important and delicate problems involved in this matter?

On the basis of reports presented by the Commission of Human Rights and the Commission on the Status of Women, the Economic and Social Council decided to make certain arrangements enabling the United Nations to use these communications.

First, the Council noticed, as the Commission of Human Rights had done earlier—that it was not possible to take action on these wishes and complaints. But it decided to give to the two Commissions the opportunity to examine these communications as far as they deal with general problems connected with their respective tasks. A system was established by which the Secretariat compiles a confidential list of the communications received. This list is communicated to the members of the Commissions, who may, on request, consult the originals. Member States which are not represented on the Commissions have the right to be informed on the substance of communications which concern them directly. The authors of the communications are informed that their communications would be brought to the Commission's attention. The identity of the authors is kept secret and only revealed if they themselves permit it.

CONCLUSION

"THE HUMAN FAMILY"

THROUGH all the effort which we have described in the preceding pages the United Nations has been striving to build an international structure designed to shelter the rights of every human being everywhere. One floor of this structure, the ground floor, is the draft Declaration of Human Rights and this will be completed when the General Assembly approves it finally. The preliminary draft of the Covenant; the three draft Conventions on freedom of information; the draft convention for the prevention and punishment of the crime of genocide; the many resolutions designed to improve the status of women, to suppress discrimination and to protect minorities, to ensure human rights to non-self-governing peoples and the research work constantly being carried on in the Secretariat into many other aspects, constitute the other floors and halls of this splendid mansion of human right and fundamental freedoms.

Though much work yet remains to be done and though the international atmosphere in the first post-war years shows no lessening of tensions and ideological differences, there is no reason to doubt the final outcome. Indeed, the United Nations has applied itself to this task so devotedly, has conceived the scheme and organized the work so clearly, that it is difficult to imagine that success will not crown its efforts in a reasonable time.

But, irrespective of such success, one historic effect has already been achieved. Man, the individual human being, has emerged on the international scene which in the past was the jousting ground only of States. As Dr. Ricardo Alfaro of Panama, one of the Rapporteurs of the San Francisco Conference, put it: "In the same degree as the State, the individual is the object of international legislation."

This revolution brought about through the United Nations not only raises the status of human beings, but also strengthens the Or-

ganization itself by strengthening links between all human beings. Indeed, the stronger one makes the relations between individuals as such, the more one strengthens the solidarity between nations.. Thus, work for the international protection of human rights not only furthers the third purpose of the United Nations Charter—"to encourage the respect for these rights,"

but the second purpose "to develop friendly relations between nations,"

and, even the primary purpose of the Organization—"to maintain international peace and security."

This new emphasis on the place of the individual human being has deepened the concept of international cooperation. We can follow this process through three significant phrases. The first, used in the Teheran declaration of December 1, 1943, by President Roosevelt, Prime Minister Churchill and Marshal Stalin was "A world family of democratic nations." The second was the phrase that opens the Charter of the United Nations, not the classical formula of "We, the High Contracting Parties," but "We, the Peoples of the United Nations." And then came as coping stone of this development, the phrase in the preamble of the draft Declaration of Human Rights, "The Human Family." Thus, the "world family of democratic nations" assumes the meaning of "the Human Family." "We the peoples" means "We Human Beings."

NOTES AND COMMENTS

1. THE COVENANT OF THE LEAGUE OF NATIONS AND HUMAN RIGHTS

The Covenant of the League of Nations does not include provisions concerning universal respect for human rights, but article 22, dealing with the Mandates system, mentions respect for certain rights in certain regions. It is stated that the stage of the development of certain peoples "especially those of Central Africa" is such that the Mandatory Power must be responsible for the administration of the territory under conditions which will guarantee "freedom of conscience and religion".

It is possible, also, to see an allusion to human rights in the first two paragraphs of Article 23. In accordance with the first, the members of the League will endeavour "to secure and maintain fair and humane conditions of labor for men, women and children, both in their own countries and in all countries to which their commercial and industrial relations extend, and for that purpose will establish and maintain the necessary international organizations." According to the second paragraph, the members will "undertake to secure just treatment of the native inhabitants of territories under their control."

The International Labour Organization which was associated with the League of Nations, enumerated in its constitution certain principles implying the recognition of economic and social rights.

It may be noted that the League, particularly during the last years of its existence, devoted considerable attention to the status of women. It initiated two studies in this field, one of which, covering the position of women in private law, was completed before the work was interrupted by World War II.

The Covenant of the League stated in Article 7 that all positions under or in connection with the League shall be open equally to men and women.

The protection of minorities assumed by the League of Nations in several countries is not mentioned in the Covenant. This system as

implemented and developed by the League was based on treaties and obligations limited to certain countries (See also pages 42-44).

2. THE SECOND WORLD-WAR AND HUMAN RIGHTS

The situation resulting from the absence of international obligations for protection of human rights, was eloquently described by Professor René Cassin, representative of France in the Human Rights Commission and Vice-President of the Commission. On June 15, 1948, during a discussion on the implementation of human rights, Professor Cassin declared:

"I was personally present at the dramatic debates which took place at Geneva between March and October 1933. At this time, the only way in which the criminal actions of Hitler Germany towards her own nationals could be brought to the notice of the Council of the League of Nations was to resort to the indirect procedure of invoking the Polish-German treaty on the protection of minorities concluded in 1922. On the day on which Assembly dared to refer to the general principles authorizing the legally organized international community to protect human rights, even in a sphere not covered by some special minority treaty, Hitler took advantage of the Third Reich's absolute sovereignty over its citizens and denied the League of Nations any right of inspection; and on October 14, 1933, Germany left the League. It is well known what attacks against the national independence and what massacres sprang from the impunity with which Hitler's first great crimes were committed" (See document E/CN./4/147. See also Note 23, quoting the speech made by M. Henri Laugier, Assistant Secretary-General, on April 29, 1946, at the opening of the Nuclear Commission on Human Rights).

3. THE MESSAGE ON "FOUR FREEDOMS"

The following is the passage on "Four Freedoms," from the annual message sent by President Franklin D. Roosevelt to the Congress of the United States on January 6, 1941:

"In the future days, which we seek to make secure, we look forward to a world founded upon four essential human freedoms.

"*The first* is freedom of speech and expression—everywhere in the world.

"The second is freedom of every person to worship God in his own way—everywhere in the world.

"The third is freedom from want—which, translated into world terms, means economic understandings which will secure to every nation a healthy peacetime life for its inhabitants—everywhere in the world.

"The fourth is freedom from fear—which, translated into world terms, means a world-wide reduction of armaments to such a point and in such a thorough fashion that no nation will be in a position to commit an act of physical aggression against any neighbor—anywhere in the world.

"That is no vision of a distant millenium. It is a definite basis for a kind of world attainable in our time and generation."

4. THE ATLANTIC CHARTER

The Atlantic Charter signed on August 14, 1941, by the President of the United States, Franklin D. Roosevelt, and the Prime Minister of Great Britain, Winston Churchill, advocated the establishment of a peace "which will afford assurance that all the men in all lands may live out their lives in freedom from fear and want."

This can be taken as a direct reference to freedom from want and from fear proclaimed in the message of President Roosevelt.

5. THE DECLARATION BY THE UNITED NATIONS

In the Declaration by the United Nations signed on January 1, 1942, the signatory States declared that they were convinced "that complete victory over their enemies is essential to defend life, liberty, independence and religious freedom, and to preserve human rights and justice in their own lands as well as in other lands."

6. THE DUMBARTON OAKS PROPOSALS

The Dumbarton Oaks Conversations which took place between the representatives of the U.S.S.R., the United Kingdom and the United States from August 21 to September 28, 1944, and between the representatives of China, the United Kingdom and the United States from September 29 to October 7, formulated the draft of a Charter of a General International Organization. One passage of this draft

dealt with the Human Rights. Chapter IX, on "Arrangements for international economic and social co-operation" begins as follows:

"With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations, the Organization should facilitate solutions of international economic, social and other humanitarian problems and promote respect for human rights and fundamental freedoms." (Section A, Paragraph 1.)

7. THE FINAL ACT OF THE CHAPULTEPEC CONFERENCE

On March 7, 1945, the Inter-American Conference on problems of War and Peace, meeting at Chapultepec, Mexico, adopted a Final Act which contains a resolution (No. XL) on the "International protection of the essential rights of Man" and a resolution (No. XLI) on "Racial Discrimination."

The first of these resolutions states at the beginning that "the Declaration of the United Nations has proclaimed the need for establishing international protection of the essential rights of man." Then it declares the necessity "to define these rights, as well as the correlative duties, in a declaration to be adopted as a convention by the States." It declares also that the international protection of the essential rights of man "would eliminate the misuse of diplomatic protection of citizens abroad" which has more than once led to the violation of the principle of non-intervention and of equality between nationals and aliens. Inspired by these considerations, the resolution proclaims "the adherence of the American Republics to the principles established by international law for safeguarding the essential rights of man" and declares that these Republics will give their support to a system of international protection of these rights. It entrusted the Inter-American Juridical Committee "to prepare a draft Declaration of the International Rights and Duties of Man."

The second resolution declares that "world peace cannot be consolidated until men are able to exercise their basic rights without distinction as to race or religion." It then reaffirms the principle of equality of rights for all men "regardless of race or religion" and recommends that the governments of the American Republics make every effort to prevent in their respective countries all acts which may provoke discrimination.

Other resolutions deal with freedom of information and the rights of women.

8. AMENDMENTS PRESENTED AT SAN FRANCISCO

The clause on Human Rights, included in the Dumbarton Oaks proposals, was considered insufficient by many governments and numerous religious and other organizations.

Further the principles proclaimed by the Chapultepec Inter-American Conference exercised a considerable influence on the views held by governments and on public opinion. Following a stand taken by high religious authorities, there was a demand for a more solemn and more detailed affirmation of human rights. Consequently, amendments and proposals flooded the San Francisco Conference.

Of the amendments presented by Governments those submitted by France, Canada, New Zealand, India, Egypt, Panama, Brazil, Uruguay, Cuba, Haiti, Chile, San Domingo and Mexico. (See also Note No. 10).

Of proposals from non-governmental organizations, those presented by twenty-two American groups accredited to the United States delegation in a consultative capacity, those by several Jewish organization and by the International League for the Rights of Man might be mentioned.

The large number of amendments presented to the Conference induced the four powers—United States, United Kingdom, USSR, China—to present separately or jointly several amendments which resulted in the final text as used in the Charter.

The source of the Preamble to the Charter which solemnly proclaims the faith of peoples in human rights can be found in a text presented by Field Marshal Smuts, leader of the delegation of the Union of South Africa.

9. CHARTER OF THE UNITED NATIONS

The reader will find in Annex I, excerpts from the Charter, containing all the provisions concerning human rights, and the Articles on the functions and powers of the organ specifically charged with responsibilities in this field.

10. THE SAN FRANCISCO CONFERENCE AND THE FUTURE INTERNATIONAL DECLARATION OF HUMAN RIGHTS

On May 5, 1945, the government of Panama submitted to the San Francisco Conference the draft of a complete "Declaration of Essential Human Rights" and the draft of a "Declaration of the Rights and Duties of Nations." (Documents of the United Nations Conference on International Organization, San Francisco, published in London and New York, Volume III, page 265 and following.) The draft Declaration of Essential Human Rights was the first basis of further discussions.

During the June 18, 1948, meeting of the Commission on Human Rights, which adopted the draft International Declaration of Human Rights, the representative of Panama, M. de Quijero, recalled this fact, declaring that the text adopted by the Commission contained all the principles of Panama's draft. (Summary record of the meeting, document C/N/4/81).

With the draft submitted by the representative of Panama, and other proposals, Committee I of Commission I, of the San Francisco Conference declared in the report of its Rapporteur, on June 13, 1945; "In connection with paragraphs 2 and 3 (of article 1 of the Charter) a suggestion was made to draft or to include an already drafted bill of rights of nations and of individuals.

"The Committee received the idea with sympathy, but decided that the present Conference, if only for lack of time, could not proceed to realize such a draft in an international contract. The Organization, once formed, could better proceed to consider the suggestion and to deal effectively with it through a special commission or by some other method. The Committee recommended that the General Assembly consider the proposal and give it effect." (UNIO, Documents, Vol. VI, page 456).

The President of the United States, Harry S. Truman, mentioned the importance of the future Declaration in his speech at the closing plenary session, on June 25, 1945: "Under this document (the Charter) we have good reason to expect the framing of an international bill of Rights, acceptable to all the nations involved. That bill of Rights will be as much a part of international life as our own Bill of Rights is a part of our Constitution. The Charter is dedicated to the achievement and observance of human rights and fundamental

freedoms, unless we can attain those objectives for all men and women everywhere—without regard to race, language or religion—we cannot have permanent peace and security.” (UNIO, Documents, Volume I, page 717.)

11. RECOMMENDATIONS OF THE PREPARATORY COMMISSION

The Preparatory Commission, meeting in London in November-December 1945, recommended to the Economic and Social Council the establishment, at its first session, of a Commission on Human Rights. It defined the mandate of the Commission in the following terms:

“In general, the functions of the Commission would be to assist the Council to carry out its responsibility under the Charter to promote human rights. The studies and recommendations of the Commission would encourage the acceptance of higher standards in this field and help to check and eliminate discrimination and other abuses.

“In particular, the work of the Commission might be directed towards the following objects: (a) formulation of an International Bill of Rights; (b) formulation of recommendations for an international declaration or convention on such matters as Civil Liberties, Status of Women, Freedom of Information; (c) protection of minorities; (d) prevention of discrimination on grounds of race, sex, language or religion; (e) any matters within the field of human rights considered likely to impair the general welfare or friendly relations among nations.

“Studies and recommendations should be made and information and other services provided at the request of the General Assembly, or of the Economic and Social Council, whether on its own initiative or at the request of the Security Council or of the Trusteeship Council.” (Report of the Preparatory Commission of the United Nations, 1945, page 36).

12. ESTABLISHMENT OF A NUCLEAR COMMISSION ON HUMAN RIGHTS

The Economic and Social Council, in its first session held in London from January 23 to February 18, 1946, adopted a resolution based on the recommendations made by the Preparatory Commission.

Following are the most important passages of this text:

"The Economic and Social Council, being charged under the Charter with the responsibility of promoting universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion, and requiring advice and assistance to enable it to discharge this responsibility, establishes a Commission on Human Rights.

"The work of the Commission shall be directed towards submitting proposals, recommendations and reports to the Council regarding: (a) an International Bill of Rights; (b) international declarations or conventions on Civil Liberties, the Status of Women, Freedom of Information and similar matters; (c) the protection of minorities; (d) the prevention of discrimination on grounds of race, sex, language or religion.

"The Commission shall make studies and recommendations and provide information and other services at the request of the Economic and Social Council. The Commission may propose to the Council any changes in its terms of reference. The Commission may make recommendations to the Council concerning any sub-commissions which it considers should be established." (Journal of the Economic and Social Council, First Year, page 123.)

The Commission, in nuclear form, established on February 16, 1946, by the Economic and Social Council, consisted of nine members appointed in their individual capacity. The following persons were appointed: Mr. Paal Berg (Norway); Professor René Cassin (France); Mr. Fernand Dehousse (Belgium); Mr. Victor Paul Haya de la Torre (Peru); Mr. K. C. Neogy (India); Mrs. Franklin D. Roosevelt (United States of America); Dr. John C. H. Wu (China). Later, Mr. Alexander Borisov (U.S.S.R.) and Mr. Dusan Brkish (Yugoslavia) joined the Commission.

Mrs. Roosevelt was President of the Commission, Professor René Cassin, Vice-President, and Mr. K. C. Neogy, Rapporteur.

13. THE PERMANENT COMMISSION ON HUMAN RIGHTS

The Commission on Human Rights has 18 members. The members are designated by the Governments, in consultation with the Secretary-General, and their nomination must be confirmed by the Economic and Social Council. The present members are from the follow-

ing countries: Australia, Belgium, Byelorussian S.S.R., Chile, China, Egypt, United States, France, India, Iran, Lebanon, Panama, Philippines, United Kingdom, Ukrainian S.S.R., Uruguay, U.S.S.R., Yugoslavia. Mrs. Eleanor Roosevelt (U.S.A.) is Chairman, Dr. P. C. Chang (China) first Vice-Chairman, Professor René Cassin (France) second Vice-Chairman, Dr. Charles Malik, Rapporteur.

14. THE SECRETARIAT OF THE UNITED NATIONS

In the Secretariat of the United Nations, questions concerning Human Rights are dealt with by the Department of Social Affairs which includes a Division of Human Rights.

The Department of Social Affairs is one of the eight Departments of the Secretariat of the United Nations; it is headed by Professor Henri Laugier, Assistant Secretary-General of the United Nations. The Director of the Human Rights Division is Professor John P. Humphrey. The Human Rights Division is organized as follows: Director's Office, Commission's Secretariat, the General Section, the Communications Section, the Section on Freedom of Information and the Press, and the Section on the Status of Women. (See report of the Secretary-General to the Economic and Social Council on the organization of the Economic and Social Departments, document E/844/Add.1./Rev. 1, of July 31, 1948. This report gives a review of the activities of the Human Rights Division.)

Other Departments of the Secretariat which are also concerned with some aspects of human rights, are the Department of Trusteeship and Information from Non-self-governing Territories, headed by Mr. Victor Chi-Tsai Hoo, Assistant Secretary-General, and the Legal Department, headed by Assistant Secretary-General Dr. Ivan Kerno.

15. THE SPECIALIZED AGENCIES AND THE NON-GOVERNMENTAL ORGANIZATIONS

In order to aid the United Nations in its work "to achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms" the Charter provided for close co-operation between the Economic and Social Council and inter-governmental as well as non-governmental organizations.

The *inter-governmental organizations*, directly related to the United Nations, in accordance with Article 70 of the Charter, are called Specialized Agencies. The representatives of these agencies participate, without vote, in all the deliberations of the Economic and Social Council, its committees and sub-committees.

The Specialized Agencies are: the International Labour Organization; Food and Agricultural Organization; United Nations Educational, Scientific and Cultural Organization (UNESCO); International Civil Aviation Organization; International Bank for Reconstruction and Development; International Monetary Fund; World Health Organization; International Refugee Organization; International Trade Organization; Universal Postal Union; International Telecommunications Union.

Certain *non-governmental organizations* have, by virtue of article 71 of the Charter, a "consultative status" with the Economic and Social Council. According to the system now evolved by the Economic and Social Council a distinction is drawn between organizations in category A which are interested in most of the activities of the Economic and Social Council; those in category B, only in certain of its activities and organizations; in category C which are interested in the work of the Council for purposes of information. All organizations enjoying consultative status can address communications to the United Nations. Communications, from category A organizations are published automatically *in extenso* as United Nations documents. Communications from category B and C organizations are published in summary form, unless a Member of the Council asks for the full document.

The representatives of these organizations have the right to be present at the discussions of the Council and its subsidiary organs. Those of category A can participate in the discussions with the authorization of the Chairman; the others take the floor only if the Council so decides.

An *ad hoc* Committee of the Economic and Social Council examines all the problems concerning the admission of non-governmental organizations to the consultative status and other questions concerning the co-operation of the United Nations with these organizations. In addition, two sections of the Secretariat deal particularly with the problem of co-operation between the United Nations and the non-governmental organizations. One section—a part of the Department

of Public Information—maintains extensive liaison with all non-governmental organizations, whether they enjoy consultative status or not. The other section, a part of the Departments for Economic and Social Affairs, deals with the organizations admitted to consultative status.

By the end of 1948, nine organizations had consultative status in category A: World Federation of Trade Unions; International Co-operative Alliance; American Federation of Labor; International Chamber of Commerce; International Federation of Agricultural Producers; International Federation of Christian Trade-Unions; Inter-Parliamentary Union; International Federation of Industrial Employers; World Federation of United Nations Associations. Sixty organizations are in category B, among them many religious, humanitarian and women's groups. Five organizations have category C status.

During the sessions of the Commission on Human Rights and the Commission on the Status of Women held in 1948, the following Specialized Agencies took an active part in its work: the International Labor Organization, the U. N. Educational, Scientific and Cultural Organization, World Health Organization and the International Refugee Organization. The following non-governmental organizations in category A co-operated with the two Commissions: American Federation of Labor, International Federation of United Nations Associations. The list of organizations in category B which participated in the work is particularly large. It comprised important women organizations, Jewish and Christian organizations, and the International League for the Rights of Man. The participation of the International Federation of Journalists in the work of the Sub-Commission on Freedom of Information and of the press and in the Conference on the same subject. Numerous proposals were presented by the specialized agencies and the non-governmental organizations during the discussions. Some were used by the organs drafting the texts on the protection of human rights; others exercised considerable influence on the decisions taken.

The Conference of International Non-governmental Organizations, held in Geneva in May 1948, was attended by 261 delegates, representing 112 organizations in categories A, B and C. The Conference studied the application of civil, economic and social rights and adopted detailed proposals which were communicated to the Economic and Social Council and the Commission on Human Rights. (See document E/C.2/98.)

16. THE DRAFTING COMMITTEE OF THE COMMISSION ON HUMAN RIGHTS

The Drafting Committee was at this time composed of the representatives of Australia, Chile, China, United States, France, Lebanon, United Kingdom, USSR. Its officers were the same as the ones elected by the Commission.

17. DECLARATION AND BILLS ON HUMAN RIGHTS

The Human Rights Division of the Secretariat of the United Nations gathered several texts from national constitutions. These are published in document E/CN.4/AC.1/3 Add., on June 2, 1947.

The Division also published, in compliance with a resolution of the Economic and Social Council, a "Year Book on Human Rights" for 1946. This Year Book, as indicated in the introduction, contains "provisions concerning human rights *in force on December 31, 1946* taken from the constitutions of all countries, as well as various legislative texts on the same subject." The publication of the Year Book, which we mention also in chapter XIII, will be continued.

18. DOCUMENTATION CONCERNING THE DRAFT INTERNATIONAL DECLARATION OF HUMAN RIGHTS

Following are important documents concerning the elaboration of the draft Declaration. Report of the first session of the Commission on Human Rights, document E/259. Report of the second session of the Commission on Human Rights, document E/600.

Report of the Drafting Committee, second session, document E/CN/ 4/95.

Report of the third session of the Commission on Human Rights, document E/800.

Summary record of the meetings of the Drafting Committee, second session, documents E/CN.4/AC.1/SR, 20 to 44.

Summary record of the meetings of the Commission, third session, document E/CN.4/SR, 26 to 81.

Summary records of the 215th and 218th meetings of the Economic

and Social Council, on August 25, and 26, 1948, documents E/SR. 215 and E/SR/218.

19. THE PART PLAYED BY MRS. ELEANOR ROOSEVELT

Mrs. Eleanor Roosevelt has, from the first meeting of the Commission in its nuclear form, in April 1946, guided and inspired the work of the United Nations in the field of human rights. In the meetings of the Economic and Social Council she, as Chairman of the Commission, presents the reports. She is also Chairman of the Drafting Committee. As the presiding officer in the Commission and as the representative of the United States Mrs. Roosevelt has contributed much to the realization of the promise of President Roosevelt's "Four Freedoms" message.

In a book published in 1938 Mrs. Roosevelt wrote that an individual must concede the same respect to the rights of other individuals as he claims for himself: a principle which should apply equally to the relations between nations. (Eleanor Roosevelt, "*This Troubled World*," New York, 1938).

20. THE ECONOMIC AND SOCIAL COUNCIL DISCUSSES THE DRAFT DECLARATION

The representatives of the following countries were members of the Economic and Social Council, when, during its seventh session, this organ discussed the draft Declaration: Australia, Brazil, Canada, United States, France, Lebanon, New Zealand, Netherlands, Peru, Poland, Byelorussian SSR, United Kingdom, Turkey, USSR and Venezuela.

Dr. Charles Malik, representative of Lebanon, was the President of the Council, Mr. Hernan Santa Cruz of Chile and M. Leonidas Kaminsky of Byelorussian SSR were Vice-Presidents.

21. TEXT OF THE DRAFT INTERNATIONAL DECLARATION OF HUMAN RIGHTS

The text of the Declaration as adopted at the Commission's meeting on June 18, 1948, is reproduced in Annex II.

23. TRADE UNION RIGHTS

It is necessary to mention here the efforts made by different organs of the United Nations to ensure the exercise and development of trade union rights, in the framework of the right of association. This problem raised by the World Federation of Trade Unions and the American Federation of Labor, was considered by the Economic and Social Council during its fourth and fifth session [resolutions 52 (IV) and 84 (V)]; the General Assembly during its regular 1947 session [resolution 128 (II)], the Commission on Human Rights (during its second and third session); the governing Body of the ILO (report VII) and the 31st Conference of the ILO held in San Francisco in June and July 1948. This Conference adopted on June 16, 1948 a Convention in two parts. The first one deals with the freedom of association, the second with the protection of the right of the individuals to establish and join organizations of their own choice. It also passed a resolution envisaging the establishment of international machinery to implement Freedom of Association. This resolution instructed the Governing Body to consult with the competent organs of the United Nations on the subject.

23. THE INTERNATIONAL DECLARATION AND THE HISTORICAL FRENCH AND AMERICAN DECLARATIONS

We cannot undertake here a comparative study of the International Declaration and the national declarations of historical importance. Let us state, nevertheless, that the *Declaration des Droits de l'Homme et du Citoyen* as well as the Bill of Rights and the American Declaration of Independence have left profound marks in the new international text.

For example:

The *Declaration of Independence*, of the 4th of July 1776, declares: "All men are created equal; they are endowed by their Creator with certain inalienable rights; among these are life, liberty, and the pursuit of happiness." The *French Declaration* of August 26, 1789, proclaims: "Men are born and remain free and equal in respect of rights." The *Draft Declaration* of June 18, 1948, says: "All human beings are born free and equal in dignity and rights."

In the *French Declaration* we read in article 8: "No one ought

to be punished but by virtue of a law promulgated before the offence and legally applied." And article 9 states that: "Every man being counted innocent until he has been convicted etc. . . ." The *Draft Declaration* stipulates in article 9: "Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law" and "No one shall be held guilty of any offence on account of any act or omission which did not constitute an offence, under national or international law, at the time when it was committed . . ."

The *Bill of Rights of the United States of America* establishes in article 6 of the principle of a public trial and calls for guarantees for the defence; the *Draft International Declaration* devotes its article 9 to the same rights.

The *French Declaration* says in article 4: "Liberty consists in the power of doing whatever does not injure another. Accordingly, the exercise of the natural rights of every man has no other limits than those which are necessary to secure to every other man the free exercise of the same rights." The *Draft International Declaration* reads: "In the exercise of his rights, everyone shall be subject only to such limitations as are necessary to secure due recognition and respect for the rights of others and the requirements of morality, public order and the general welfare in a democratic society."

The *French Declaration* establishes in article 10 the right of every man to enjoy the freedom of expression of his opinions "even religious opinions" and stipulates in article 11: "The unrestrained communication of thoughts or opinions being one of the most precious rights of men, every citizen may speak, write, and publish freely, provided he be responsible for the abuse of this liberty in the cases determined by law."

The *Constitution of the United States* provides in article 1 that Congress shall make no law "prohibiting the free exercise of religion; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble." The *Draft International Declaration* devotes articles 16 and 17 to the same rights.

The *French Declaration* guarantees in article 2, the *Bill of Rights of the United States* in article 4, and the *Draft International Declaration* in article 10 the right of the people to be secure in their persons, houses and other personal rights.

24. DOCUMENTATION CONCERNING THE DRAFT COVENANT

Following are the most important documents concerning the draft Covenant on Human Rights:

Report of the Drafting Committee of the Commission on Human Rights, Document E/CN.4/21.

Report of the Commission on Human Rights, second session, Document E/600.

Report of the Drafting Committee, second session, Document E/CN.4/95.

Summary record of the meetings of the Drafting Committee, second session, Document E/CN.4/AC1 SR20 to 24..

Report of the Commission on Human Rights, third session, E/800, pages 6 and 15 to 35. Documents E/SR/215 and E/SR/218—Records of the 215th and 218 meetings of the Economic and Social Council, August 25 and 26, 1948, Document E/SR/215 and E/SR/218.

25. THE NEED TO IMPLEMENT HUMAN RIGHTS

Stating that the drafting of an International Declaration of Human Rights is the first task of the Commission on Human Rights, Mr. Henri Laugier, Assistant Secretary General of the United Nations, declared in his speech at the opening meeting of the Nuclear Commission on April 29, 1946:

"You will have before you the difficult but essential problem of define the violation of human rights within a nation, which would constitute a menace to the security and peace of the world and the existence of which would put in operation the mechanism of the United Nations for the maintenance of peace and security. You will have to suggest the establishment of machinery of observation which will find and denounce the violations of the rights of man all over the world. Let us remember that if this machinery had existed a few years ago, if it had been powerful and if the universal support of public opinion had given it authority, international action would have been mobilized immediately against the first authors and supporters of Fascism and Nazism. The human community would have been able to stop those who started the war at the moment when they were still weak and the world catastrophe would have been avoided."

The Nuclear Commission on Human Rights presented in its report to the Economic and Social Council the following suggestions:

"With regard to the promotion and observance of human rights and fundamental freedoms, the Commission felt that practical and effective measures must be taken. Each Member State must feel bound to adopt, in accordance with its system of government, measures to safeguard the observance and to provide against the violation of those rights and freedoms that are proclaimed in an international bill. But the Commission also felt the need for an international agency of implementation entrusted with the task of watching over the general observance of human rights, in order to prevent the recurrence of acts as monstrous as those which formed the prelude to the second world war. It was also pointed out that pending the eventual establishment of such an agency, the Commission on Human Rights might assist the appropriate organs of the United Nations in the task defined for the General Assembly and the Economic and Social Council in Articles 13, 55 and 62 of the Charter and that it might aid the Security Council in the task entrusted to it by Article 39 of the Charter, by pointing to cases where violation of human rights may constitute a threat to peace.

The Commission recognized that when the Economic and Social Council comes to consider the question of how to implement an International Bill of Rights, it may find that political actions are necessary. This may also be the case where protection of national minorities is concerned. The Commission, therefore, requests the Economic and Social Council to take this problem into consideration in determining the status and power of the Commission on Human Rights, of its sub-commissions, or of any other agency established to safeguard the observance of Human Rights." (Journal of the Economic and Social Council, N. Y., first year, 1946).

26. DOCUMENTATION ON IMPLEMENTATION OF THE COVENANT

The most important documents on the implementation of the Covenant are:

Report of the Commission on Human Rights, second session, Document E/600.

Report of the Commission on Human Rights, third session, Document E/800.

In this last report (Annex C), the following documents are mentioned.

Document E/CN.4 AC. 1/27: Proposal by the Australian representative concerning an International Court of Human Rights.

Document E/CN.4/145: Proposal by China and the United States on implementation for the Covenant on Human Rights.

Documents E/CN.4/147 et E/CN.4/82/Add.10.: Statement by Professor René Cassin on implementation of Human Rights.

Document E/CN.4/153: Amendment by the representative of India.

Document E/CN.4/153: Proposal on implementation by the representative of India.

Document E/CN.4/SR.81: Summary record of the 81st plenary meeting of the Commission on Human Rights (third session).

Document E/CN.4/154: Statement by the representative of USSR on the implementation of the Covenant.

The reader may consult also the draft of the United Kingdom mentioned in this volume, containing important proposals on implementation. See Document E/CN.4/AC.1/4.

See also the record of the meetings of the Economic and Social Council of August 21 and 26, 1948 (seventh session), Documents SR/215 and SR/218.

27. SUB-COMMISSION ON FREEDOM OF INFORMATION AND OF THE PRESS

The Sub-Commission on Freedom of Information and of the Press was composed of members belonging to the following countries: Canada, China, United States, France, Norway, Panama, Netherlands, Republic of the Philippines, United Kingdom, Czechoslovakia, USSR and Uruguay.

The officers were: Dr. G. T. van Heuven Goedhart, Netherlands, Chairman; Mr. Leo Sychrava, Czechoslovakia, Vice-Chairman; and Mr. George V. Ferguson, Canada, Rapporteur.

28. TWO RESOLUTIONS OF THE GENERAL ASSEMBLY: 1. WAR PROPAGANDA AND 2. FALSE AND DISTORTED NEWS

The General Assembly adopted on November 3, 1947, during its second regular session, the following resolution against propaganda and the inciters of a new war:

"WHEREAS in the Charter of the United Nations the peoples express their determination to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and to practice tolerance and live together in peace with one another as good neighbours, and

WHEREAS the Charter also calls for the promotion of universal respect for, and observance of, fundamental freedoms which include freedom of expression, all Members having pledged themselves in Article 56 to take joint and separate action for such observance of fundamental freedom,

THE GENERAL ASSEMBLY

1. CONDEMNS all forms of propaganda, in whatsoever country conducted, which is either designed or likely to provoke or encourage any threat to the peace, breach of the peace, or act of aggression:

2. REQUESTS the Government of each Member to take appropriate steps within its constitutional limits:

(a) To promote, by all means of publicity and propaganda available to them, friendly relations among nations based upon the Purposes and Principles of the Charter;

(b) To encourage the dissemination of all information designed to give expression to the undoubted desire of all peoples for peace;

3. DIRECTS that this resolution be communicated to the forthcoming Conference on Freedom of Information."

(Resolutions of the General Assembly, second session, Resolution 110 (II), Page 14).

The following is the resolution adopted by the General Assembly on November 15, 1947, against false or distorted reports:

THE GENERAL ASSEMBLY,

"CONSIDERING that, under Article 1 of the Charter, Members are bound to develop friendly relations amongst themselves and to achieve international co-operation in promoting and encouraging respect for human rights and fundamental liberties;

CONSIDERING that to attain this end it is essential to facilitate and increase the diffusion in all countries of information calculated to strengthen mutual understanding and ensure friendly relations between the peoples;

CONSIDERING that substantial progress in this sphere can be achieved only if measures are taken to combat, within the limits of constitutional procedures, the publication of false or distorted reports likely to injure friendly relations between States,

INVITES the Government of States Members

1. To study such measures as might with advantage be taken on the national plane to combat, within the limits of constitutional procedures, the diffusion of false or distorted reports likely to injure friendly relations between States;

2. To submit reports on this subject to the Conference on Freedom of Information so as to provide the Conference with the data it requires to enable it to start its work immediately on a concrete basis;

RECOMMENDS to the Conference on Freedom of Information that it study, with a view to their co-ordination, the measures taken or advocated in this connexion by the various States, as being relevant to the discussion of items 2 (*d*) and 5 (*c*) of section II of its provisional agenda."

(Resolutions of the General Assembly, second session, resolution 127 (II), page 38.)

29. TEXTS OF THE THREE CONVENTIONS ON THE FREEDOM OF INFORMATION

We publish in Annex III the texts of the three draft Conventions on Freedom of Information: 1. Draft Convention on the Gathering and international Transmission of News (this text is the one established by the Human Rights Committee of the Economic and Social Council, based on the draft adopted by the United Nations Conference on Freedom of Information); 2. Draft Convention on the institution of an international Right of Correction; 3. Draft Convention on Freedom of Information. (The last two texts are those adopted by the Conference on Freedom of Information which the Economic and Social Council transmitted later, without comment to the General Assembly.)

30. THE HUMAN RIGHTS COMMITTEE OF THE ECONOMIC AND SOCIAL COUNCIL

During its seventh session, from July 19 to August 29, the Economic and Social Council, which up to this date divided the questions on the agenda between two committees, the Economic Committee and the Social Committee, the last one dealing with items concerning human rights, sent these items, for the first time, to a new Committee, the Human Rights Committee. It was in this Committee that the draft of the Convention on the Gathering and International Transmission of News was revised; it was equally this Committee which drafted the resolutions on the Status of women dealt with in Chapter XI. As far as the drafts of the Declaration of Human Rights and the Convention on Genocide are concerned, they were discussed only during the general debate in the Council's plenary meetings.

31. THE USSR AND THE CONVENTION ON FREEDOM OF INFORMATION

The following are the main points made by the representative of the USSR when he rejected the drafts of the Conventions established by the United Nations Conference on Freedom of Information and when he objected also to the new version of the first of these drafts proposed by the Human Rights Committee of the Economic and Social Council.

These conventions said Mr. Pavlov at the Council's plenary meeting on August 27, 1948, would not promote international peace and security or further the development of friendly relations between States; they did not contain provisions which prohibit fascist or war propaganda or the dissemination of racial, religious or national hatred. They ran counter to the essential principle contained in Article 2 of the Charter prohibiting interference in matters essentially within the domestic jurisdiction of any State. Further, he said, the representatives of France, the United Kingdom and the United States tried to establish two different criteria, one for the so-called civilized countries, another for the colonial, non-self-governing countries. (Document E/SR/221.)

32. DOCUMENTATION ON FREEDOM OF INFORMATION AND OF THE PRESS

Following are the most important documents on freedom of information and of the press.

Report of the Sub-Commission on Freedom of Information and of the press (first session) Document E/441.

Report of the Sub-Commission on Freedom of Information and of the Press (second session) E/N.4/80.

Resolution of the Economic and Social Council on August 14, 1947, document E/Conf.6/1.

Final Act of the United Nations Conference on Freedom of Information, document E/Conf.6/79.

Report of the Human Rights Committee to the Economic and Social Council, seventh session, document E/1018.

Records of the meetings of the Human Rights Committee of the Economic and Social Council, seventh session, document E/A.23/SR.13 to SR.26.

Records of the meetings of the Economic and Social Council, seventh session, document E/SR.219/221/223.

33. THE SUB-COMMISSION ON THE PREVENTION OF DISCRIMINATION AND THE PROTECTION OF MINORITIES

The Sub-Commission was composed of members from the following countries: Australia, Belgium, China, Ecuador, United States, France, Haiti, India, Iran, Sweden, United Kingdom and USSR. The officers were: Mr. E. Ekstrand, Sweden, Chairman; Mr. H. Roy, Haiti, Vice-Chairman; M. J. Nisot, Belgium, Rapporteur. The Sub-Commission held only one session.

34. PROVISIONS CONCERNING THE PROTECTION OF HUMAN RIGHTS AND MINORITIES IN A RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY ON NOVEMBER 29, 1947.

The fight against discrimination and for the protection of minorities was the object of a third resolution adopted by the Assembly in 1947.

Recommending on November 29, 1947 a plan of Partition for Palestine, the General Assembly inserted in this resolution the text of a Declaration to be accepted by the Jewish and Arab States. Chapter 2 of this Declaration is headed: "Religious and minority

rights." Paragraph 1 of this chapter stipulates: "Freedom of conscience and the free exercise of all forms of worship, subject only to the maintenance of public order and morals, shall be ensured to all." Paragraph 2 declares: "No discrimination of any kind shall be made between the inhabitants on the ground of race, religion, language or sex." Paragraph 3 states that all persons within the jurisdiction of the State shall be entitled to equal protection of the laws. The paragraphs which follow deal specially with the protection of the various minorities.

Moreover, the special regime for the City of Jerusalem established by this plan included an article—Article 12—on the freedoms of citizens. Paragraph (a) of this article reads: "Subject only to the requirements of public order and morals, the inhabitants of the City shall be ensured the enjoyment of human rights and fundamental freedoms, including freedom of conscience, religion and worship, language, education, speech and press, assembly and association, and petition." In paragraph (b) we read: "No discrimination of any kind shall be made between the inhabitants on the grounds of race, religion, language or sex." In the following paragraphs are defined the rights of the groups and communities. (Resolution of the General Assembly, second session, 16-September-29 November 1947, resolution 181 (II), pages 137 and 149.)

35. DOCUMENTATION CONCERNING PREVENTION OF DISCRIMINATION AND THE PROTECTION OF MINORITIES

Report of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities (session of November 23 and December 6, 1947) Document E/CN.4/52.

The Secretariat paper dealing with international protection of minorities under the regime of the League of Nations is Document E/CN.4/Sub.2/6.

We might note that the draft of the Declaration approved by the Commission on Human Rights during its second session (Document E/600) contained an Article 31 concerning the rights of minorities. This article was deleted from the draft Declaration as passed on June 18, a deletion which was opposed by the representative of Denmark during the session of the Economic and Social Council, July-August 1948 (Document E/SR./215, record of the

215th meeting of the Economic and Social Council on August 25, 1947.)

36. RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY ON
AFFIRMATION OF THE PRINCIPLES OF THE NUREMBERG
TRIBUNAL .

The resolution adopted by the General Assembly on December 11, 1946 concerning the principles of international law recognized by the Charter of the Nuremberg Tribunal is drafted in the following terms:

"THE GENERAL ASSEMBLY,

Recognizes the obligation laid upon it by Article 13, paragraph 1, sub-paragraph a, of the Charter, to initiate studies and make recommendations for the purpose of encouraging the progressive development of international law and its codification;

Takes note of the Agreement for the establishment of an International Military Tribunal for the prosecution and punishment of the major war criminals of the European Axis signed in London on August 8, 1945, and the Charter annexed thereto, and of the fact that similar principles have been adopted in the Charter of the International Military Tribunal for the trial of the major war criminals in the Far East, proclaimed at Tokyo on January 19, 1946;

Therefore,

AFFIRMS the principles of international law recognized by the Charter of the Nuremberg Tribunal and the judgment of the Tribunal;

DIRECTS the Committee on the codification of international law established by the resolution of the General Assembly of December 11, 1946, to treat as a matter of primary importance plans for the formulation, in the context of a general codification of offences against the peace and security of mankind, or of an International Criminal Code, of the principles recognized in the Charter of the Nuremberg Tribunal and in the judgement of the Tribunal." (Resolutions adopted by the General Assembly during the second part of its first session on December 11, 1946, No. 95 (I).)

37. RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY ON
THE CRIME OF GENOCIDE

Following is the resolution adopted by the General Assembly on

December 11, 1946, during the second part of its first session:

"Genocide is a denial of the right of existence of entire human groups, as homicide is the denial of the right to live of individual human beings, such denial of the right of existence shocks the conscience of mankind, results in great losses to humanity in the form of cultural and other contributions represented by these human groups, and is contrary to moral law and to the spirit and aims of the United Nations.

Many instances of such crimes of genocide have occurred when racial, religious, political and other groups have been destroyed, entirely or in part.

The punishment of the crime of genocide is a matter of international concern.

The General Assembly, therefore,

AFFIRMS that genocide is a crime under international law which the civilized world condemns, and for the commission of which principals and accomplices—whether private individuals, public officials or statesmen, and whether the crime is committed on religious, racial, political or any other grounds—are punishable;

INVITES the Member States to enact the necessary legislation for the prevention and punishment of this crime;

RECOMMENDS that international co-operation be organized between States with a view to facilitating the speedy prevention and punishment of the crime of genocide, and, to this end,

REQUESTS the Economic and Social Council to undertake the necessary studies, with a view to drawing up a draft convention on the crime of genocide to be submitted to the next regular session of the General Assembly." (Resolution No. 96 (I).

38. AD HOC COMMITTEE ON GENOCIDE

The Ad Hoc Committee on Genocide was composed of representatives from the following countries: China, United States, France, Lebanon, Poland, USSR and Venezuela. Mr. John Maktos, United States, was Chairman. Mr. Platon D. Morozov, USSR, was Vice-Chairman, and Mr. Karim Azkoul, Lebanon, Rapporteur.

39. CONVENTION ON THE PREVENTION AND PUNISHMENT OF GENOCIDE

The reader will find the complete text of the Draft Convention adopted on May 10, 1948, by the Special Committee on Genocide, in Annex IV.

40. DOCUMENTATION ON GENOCIDE

The principal documents are:

The prevention and punishment of genocide, Documents E/621 and E/621. Add. 1.

Report of the Ad Hoc Committee and draft convention, Document E/794.

Report of the Commission on Human Rights (third session), Document E/800.

Records of the 218th and 219th meetings of the Economic and Social Council, held on August 26, 1948, Documents E/SR/218 and E/SR/219.

41. COMMISSION ON THE STATUS OF WOMEN

The Commission on the Status of Women has 15 members from the following countries: Australia, Byelorussian S.S.R., China, Costa Rica, Denmark, United States of America, France, Guatemala, India, Mexico, United Kingdom, Syria, Turkey, USSR and Venezuela. Mrs. Bogdil Begtrup, Denmark, was Chairman of the first session, Mrs. J. Street, Australia, Vice-Chairman, and Mrs. E. Uralova, Byelorussian S.S.R., Rapporteur. During the second session, Mrs. Marie Hélène Lefauchaux, France, was elected Chairman, Mrs. Amalia C. de Castillo Ledon, Mexico, first Vice-Chairman, Mrs. Elizavieta Alekseevna Popova, USSR, second Vice-Chairman, and Mrs. Alice Kandalf Cosma, Syria, Rapporteur.

42. DOCUMENTATION ON THE STATUS OF WOMEN

The principal documents are:

Report of the Commission on the Status of Women (first session), Document E/281 Rev. 1.

Report of the Commission on the Status of Women (second session, Document E/615.

Resolutions adopted by the Economic and Social Council, sixth session, resolution 120 (VI).

Resolutions adopted by the Economic and Social Council, seventh session, Document E/1065 and E/1065/Corr. 1.

Summary records of the meetings of the Committee on Human Rights of the Economic and Social Council, Documents E/AC.25/SR1 to SH12.

Report of the Committee on Human Rights of the Economic and Social Council, Document E/950.

43. DOCUMENTATION CONCERNING THE PROTECTION OF HUMAN RIGHTS IN NON-SELF-GOVERNING TERRITORIES

To study this question, references should be made to the texts of the Questionnaire of the Trusteeship Council and the Rules of procedure of that Council: the resolutions adopted by the General Assembly on November 3, 1947, during its second session—resolutions 142 (II), 143 (II), 144 (II), 145 (II), 146 (II); and the standard form for the guidance of Members in the preparation of information, the form being published in the Annex of resolution 142 (II). (Resolutions of the General Assembly, second session, pages 48 to 58. See also Document E/857.)

44. HUMAN RIGHTS AND THE PEACE TREATIES

The peace treaties concluded with Italy, Hungary, Bulgaria, Rumania and Finland all carry the following article:

“Italy [Hungary, Bulgaria, Rumania, Finland] shall take all measures necessary to secure to all persons under Italian [Hungarian, Bulgarian, Rumanian, Finnish] jurisdiction, without distinction as to race, sex, language or religion, the enjoyment of human rights and of the fundamental freedoms, including freedom of expression, of press and publication, of religious worship, of political opinion and of public meeting.” (Article 15 of the treaty of peace with Italy, Articles 2, 2, 3 and 6 in the treaties of peace concluded with the other four countries.)

This text follows faithfully the stipulations of the Charter and also specifically enumerates certain rights and freedoms.

In the treaties of peace concluded with *Hungary and Rumania*, this article is followed by a second paragraph included because of representations by Jewish organizations. The paragraph forbids all discriminatory measures on the ground of "race, sex, language or religion, whether in reference to their [persons of Hungarian nationality] persons, property, business, professional or financial interests, status, political or civil rights or any other matter."

Another article of the treaties of peace concluded with Hungary (Article 25) and Rumania (Article 27), deal with reparations due to the minorities which were the victims of measures of seizures and sequestration because of their racial origin or their religion or following other measures of persecution.

Moreover, a special article inserted in all the five treaties has the object of preventing in these countries the resurrection of fascist organizations, political or military, which aim at the denial to the people of their democratic rights. (Article 17—Italy; 4—Hungary; 4—Bulgaria; 6—Rumania; 6—Finland.)

The treaty of peace concluded with Italy has an article stipulating that any State to which Italian territory may be transferred should secure to all persons within the territory the enjoyment of human rights and of the fundamental freedoms, drafting this obligation in terms identical with those defining the obligations of the five enemy countries. (Political clauses, Section II, Article 19.)

Human rights and the fundamental freedoms are also guaranteed in Annex VI of the treaty concluded with Italy concerning the status of the Free Territory of Trieste.

Annex IV of treaty with Italy, concerning the Italian province of Bolzano, includes an agreement between the Italian and Austrian Governments containing several stipulations to insure the re-establishment or the maintenance of certain political and ethnical rights of the German speaking inhabitants.

Further, the five peace treaties contain stipulations concerning the extradition of persons who had provoked wars or had committed crimes against peace and humanity.

45. YEAR BOOK ON HUMAN RIGHTS

At its second session, the Economic and Social Council, taking note of the recommendation of the Nuclear Commission on Human Rights adopted a resolution requesting the Secretary General to make arrangements for "the compilation and publication of a year-book on law and usage relating to human rights, the first edition of which should include all declarations and bills on human rights now in force in the various countries."

The Year Book on Human Rights, 1946, published by the Secretariat's Division on Human Rights, is the result of this request.

This is to be a continuing yearly publication. The Commission on Human Rights has expressed the opinion that the next edition should not only contain the provisions to be found in the constitutions, the texts of ordinary laws and international treaties, but also "court decisions." (See Report of the Commission on Human Rights third session, Document E/800).

46. INFORMATION GROUPS AND LOCAL HUMAN RIGHTS COMMITTEES

A note by the Secretary General on the functions of information groups and local human rights committees dated June 9, 1948, and addressed to the Commission on Human Rights, gives interesting details on the origin and functioning of these organizations. (Document E/CN.4/115.)

47. COMMUNICATIONS ADDRESSED TO THE UNITED NATIONS CONCERNING HUMAN RIGHTS

The rules established on these communications apply only to communications from individuals and non-governmental organizations which do not have the consultative status with the Economic and Social Council. The manner in which communications from groups which have consultative status are utilized is dealt with in note 15.

Following are documents concerning communications dealt with in Chapter XIII of this volume: two resolutions adopted by the Economic and Social Council during the fifth session of the Council, on August 5, 1947,—“Communications concerning human rights”

No. 75 (V) and, "Communications concerning the status of women," No. 76 (V)—, and a resolution adopted during the sixth session, on March 1st, 1948, No. 116 (VI). In this last resolution, the Council decided that the same procedure should apply to communications addressed to the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities.

Reference may be made also to the memorandum, drafted by the Secretariat at the request of the Social and Economic Council, which deals with communications concerning human rights received by the United Nations. This memorandum—document E/857—dated July 20, 1948, describes exactly the procedure used by all the organs of the United Nations in regard to communications which they receive.

48. HUMAN RIGHTS AND THE UNITED NATIONS BULLETIN

In about one hundred articles, notes, references to the work of the different organs of the United Nations and specially written comments by experts in this field, the *United Nations Bulletin*, in its three editions—English, French and Spanish—has covered the work of the United Nations in the field of Human Rights.

The following is a list of important articles. The page references are to the English editions:

"Evolution of Human Rights," Vol. I, No. 2, page 12, August 12, 1946.

"Commission on Human Rights Meets," Vol. II, No. 2, page 64, January 28, 1947.

"Groundwork laid for an International Bill of Rights," Vol. II, No. 7, page 169, February 25, 1947.

"Human Rights and Status of Women," Vol. LL, No. L3, page 357, April 8, 1947, and Vol. II, No. 15, page 433, April 22, 1947.

"International Bill of Rights—Secretariat Documented outline submitted," fol. II, No. 23, page 639, June 17, 1947.

In Vol. III, the reader will find comments by: E. H. Carr, Arthur H. Compton, Benedetto Croce, Mohandas K. Gandhi, Aldous Huxley, Harold J. Laski, Salvador de Madariaga, Jacques Mari-

tain, Lewis Mumford, F. S. C. Northrop, Frank R. Scott, Peter Skov, Quincy Wright.

(See Index, Vol. III, P. IX.)

"Working Papers for Bill of Human Rights," Vol. III, No. 12, page 55, July 8, 1947.

"Protecting Minority Groups," by Erik Enar Eksrang, Vol. III, No. 25, page 806, December 16, 1947.

"Status of Women Reviewed," Vol. IV, No. 1, page 39, January 1, 1948.

"First Draft of Human Rights Bill completed," Vol. IV, No. 2, page 74, January 15, 1948.

"Draft International Declaration of Human Rights," Vol. IV, No. 2, page 77, January 15, 1948.

"Further Progress Toward Universal Declarations," Vol. IV, No. 12, page 487, June 15, 1948.

"International Bill of Human Rights," by Charles Malik, Vol. V, No. 1, page 519, July 1st, 1948.

"Human Rights in World Constitutions," Vol. V, No. 6, page 734, September 15, 1948.

"Searching Study of Human Rights Declaration," Vol. V, No. 9, page 858, November 1st, 1948.

49. UNITED NATIONS—MEN UNITED

The reader may be reminded that clearsighted men in various countries recognized, after the break-down of the League of Nations, the link between the maintenance of peace and the protection of the rights of the individual. We might recall here the introduction which Nicholas Murray Butler, former President of Columbia University, wrote for the American edition of "The Great Experiment" (New York, 1941) in which Lord Robert Cecil, one of the great men of League of Nations, analyzed the record of the League and formulated proposals for new international machinery. Dr. Butler first shows the dangers which the world faced from those who unleashed armed aggression against civilization, and then declares:

"The alternative is to make every sacrifice, personal and national, for the maintenance and defense of what has been our liberal and forward-facing civilization. This has marched along through one great achievement after another and is marked by Magna Carta and the seventeenth-century revolution in Great Britain, by the organization of the Government of the United States with the Bill of Rights which is a part of its Federal Constitution, and in France by the revolution of 1789 with its motto of *Liberté, Égalité, Fraternité*, and the principles recorded in the Declaration des Droits de l'homme. Are all these great historic achievements to count for nothing? Do they not rather provide the inspiration and the strength successfully to defend them from any attack by armed force and in time to extend them to the control of the organized social, economic and political life of the whole world?"

In conclusion it might be pointed out that if the League of Nations was founded on President Wilson's "Fourteen Points," which proclaimed *the rights of peoples*, the United Nations is inspired by President Roosevelt's "Four Freedoms" Message which envisaged a new world order based on respect for *the rights of man*.

ANNEXES

I. EXCERPTS FROM THE UNITED NATIONS CHARTER

(The following passages are excerpts from the Charter. Those directly concerned with human rights are printed in italics. The passages in roman type are relevant provisions on different organs which have responsibilities in connection with human rights).

PREAMBLE:

We the peoples of the United Nations, determined . . . *to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women . . . have resolved to combine our efforts to accomplish these aims. . . .*

CHAPTER I.—PURPOSES AND PRINCIPLES

Article 1.

The Purposes of the United Nations are:

3—to achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character, *and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion.*

Article 2.

7—Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.*)

*) Chapter VII of the Charter deals with "Action with respect to threats to the peace, breaches of the peace, and acts of aggression."

CHAPTER II—MEMBERS

Article 4.

1—Membership in the United Nations is open to all other peace-loving states which accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out these obligations.

CHAPTER III—ORGANS

Article 8

The United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principle and subsidiary organs.

CHAPTER IV—THE GENERAL ASSEMBLY

Article 13.

The General Assembly shall initiate studies and make recommendations for the purpose of.....

1b) *assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion.*

Article 18.

2—Decisions of the General Assembly on important questions shall be made by a two-thirds majority of the members present and voting.

CHAPTER V—THE SECURITY COUNCIL

Article 23.

1—The Security Council shall consist of eleven Members of the United Nations. The Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America shall be permanent members of the Security Council. The General Assembly shall elect six other Members of the United Nations to be non-permanent members of the Security Council etc. . . .

Article 24.

1—In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary re-

sponsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.

2—In discharging these duties the Security Council shall act in accordance with the Purposes and Principles of the United Nations etc. . . .

CHAPTER IX—INTERNATIONAL ECONOMIC AND SOCIAL COOPERATION

Article 55.

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:

(c) *universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.*

Article 56.

All Members pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55.

Article 60.

Responsibility for the discharge of the functions of the Organization set forth in this Chapter shall be vested in the General Assembly and, under the authority of the General Assembly, in the Economic and Social Council, which shall have for this purpose the powers set forth in Chapter X.

CHAPTER X—THE ECONOMIC AND SOCIAL COUNCIL

Article 61.

1—The Economic and Social Council shall consist of eighteen Members of the United Nations elected by the General Assembly.

Article 62.

2—*The Economic and Social Council may make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all.*

3—It may prepare draft conventions for submission to the General Assembly, with respect to matters falling within its competence.

4—It may call, in accordance with the rules prescribed by the United Nations, international conferences on matters falling within its competence.

Article 67.

2—Decisions of the Economic and Social Council shall be made by a majority of the members present and voting.

Article 68.

The Economic and Social Council shall set up *commissions* in economic and social fields for the *promotion of human rights*, and such other commissions as may be required for the performance of its functions.

Article 70.

The Economic and Social Council may make arrangements for representatives of the specialized agencies to participate, without vote, in its deliberations and in those of the commissions established by it and for its representatives to participate in the deliberations of the specialized agencies.

Article 71.

The Economic and Social Council may make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its competence. Such arrangements may be made with international organizations and, where appropriate, with national organizations after consultation with the Member of the United Nations concerned.

CHAPTER XI—DECLARATION REGARDING NON-SELF-GOVERNING TERRITORIES

Article 73.

Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government recognize the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligations to promote to the utmost, within the system of international peace and security established by the present Charter, the well-being of the inhabitants of these territories, and, to this end:

a. to ensure, with due respect for the culture of the peoples concerned, their political, economic, social, and educational advancement, their just treatment, and their protection against abuses;

b. to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement;

e. to transmit regularly to the Secretary-General for information purposes, subject to such limitation as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social, and educational conditions to the territories for which they are respectively responsible other than those territories to which Chapters XII and XIII apply.

CHAPTER XII—INTERNATIONAL TRUSTEESHIP SYSTEM

Article 76.

The basic objectives of the trusteeship system, in accordance with the Purposes of the United Nations laid down in Article 1 of the present Charter, shall be:

(c) to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion, and to encourage recognition of the interdependence of the peoples of the world.

CHAPTER XIII—THE TRUSTEESHIP COUNCIL

Article 86.

1—The Trusteeship Council shall consist of the following Members of the United Nations:

- a) those Members administering trust territories;
- b) such of those Members mentioned by name in Article 23 as are not administering trust territories*.
- c) as many other Members elected for three-year terms by the General Assembly as may be necessary to ensure that the total number of members of the Trusteeship Council is equally divided between those Members of the United Nations which administer trust territories and those which do not.

*Article 23 which deals with the composition of the Security Council, designates as permanent members of the Council, the Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America. Only China and USSR do not administer trust territories.

Article 87.

The General Assembly and, under its authority, the Trusteeship Council, in carrying out their functions, may:

- a. consider reports submitted by the administering authority;
 - b. accept petitions and examine them in consultation with the administering authority;
 - c. provide for periodic visits to the respective trust territories at times agreed upon with the administering authority;
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Article 89.

2—Decisions of the Trusteeship Council shall be made by a majority of the members present and voting.

CHAPTER XIV—THE INTERNATIONAL COURT OF JUSTICE

Article 92.

The International Court of Justice shall be the principal judicial organ of the United Nations. It shall function in accordance with the annexed Statute, which is based upon the Statute of the Permanent Court of International Justice and forms an integral part of the present Charter.

Article 93.

1—All Members of the United Nations are *ipso facto* parties to the Statute of the International Court of Justice.

2—A state which is not a Member of the United Nations may become a party to the Statute of International Court of Justice on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council.

II. DRAFT INTERNATIONAL DECLARATION OF HUMAN RIGHTS

(Text adopted by the Commission on Human Rights on June 18, 1948).

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world; and

Whereas disregard and contempt for human rights resulted, before and during the Second World War, in barbarous acts which outraged the conscience of mankind and made it apparent that the fundamental freedoms were one of the supreme issues of the conflict; and

Whereas it is essential, if mankind is not to be compelled as a last resort to rebel against tyranny and oppression, that human rights should be protected by a regime of law; and

Whereas the peoples of the United Nations have in the Charter determined to reaffirm faith in fundamental human rights and in the dignity and worth of the human person and to promote social progress and better standards of life in larger freedom; and

Whereas Member States have pledged themselves to achieve, in co-operation with the Organization, the promotion of universal respect for and observance of human rights and fundamental freedoms; and

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now therefore the General Assembly

Proclaims this Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1.

All human beings are born free and equal in dignity and rights. They are endowed by nature with reason and conscience, and should act towards one another in a spirit of brotherhood.

Article 2.

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, property or other status, or national or social origin.

Article 3.

Everyone has the right to life, liberty and security of person.

Article 4.

1. No one shall be held in slavery or involuntary servitude.
2. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 5.

Everyone has the right to recognition everywhere as a person before the law.

Article 6.

All are equal before the law and are entitled without any discrimination to equal protection of the law against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 7.

No one shall be subjected to arbitrary arrest or detention.

Article 8.

In the determination of his rights and obligations and of any criminal charge against him, everyone is entitled in full equality to a fair hearing by an independent and impartial tribunal.

Article 9.

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
2. No one shall be held guilty of any offence on account of any act or omission which did not constitute an offence, under national or international law, at the time when it was committed.

Article 10.

No one shall be subjected to unreasonable interference with his privacy, family, home, correspondence or reputation.

Article 11.

1. Everyone has the right to freedom of movement and residence within the borders of each State.

2. Everyone has the right to leave any country, including his own.

Article 12.

1. Everyone has the right to seek and be granted, in other countries, asylum from persecution.

2. Prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations do not constitute persecution.

Article 13.

No one shall be arbitrarily deprived of his nationality or denied the right to change his nationality.

Article 14.

1. Men and women of full age have the right to marry and to found a family and are entitled to equal rights as to marriage.

2. Marriage shall be entered into only with the full consent of both intending spouses.

3. The family is the natural and fundamental group unit of society and is entitled to protection.

Article 15.

1. Everyone has the right to own property alone as well as in association with others.

2. No one shall be arbitrarily deprived of his property.

Article 16.

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 17.

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 18.

Everyone has the right to freedom of assembly and association.

Article 19.

1. Everyone has the right to take part in the government of his country, directly or through his freely chosen representatives.

2. Everyone has the right of access to public employment in his country.

3. Everyone has the right to a government which conforms to the will of the people.

Article 20.

Everyone, as a member of society, has the right to social security and is entitled to the realization, through national effort and international co-operation, and in accordance with the organization and resources of each State, of the economic, social and cultural rights set out below.

Article 21.

1. Everyone has the right to work, to just and favourable conditions of work and pay and to protection against unemployment.

2. Everyone has the right to equal pay for equal work.

3. Everyone is free to form and to join trade unions for the protection of his interests.

Article 22.

1. Everyone has the right to a standard of living, including food, clothing, housing and medical care, and to social services, adequate for the health and well-being of himself and his family and to security in the event of unemployment, sickness, disability, old age or other lack of livelihood in circumstances beyond his control.

2. Mother and child have the right to special care and assistance.

Article 23.

1. Everyone has the right to education. Elementary and fundamental education shall be free and compulsory and there shall be equal access on the basis of merit to higher education.

2. Education shall be directed to the full development of the human personality, to strengthening respect for human rights and fundamental freedoms and to combating the spirit of intolerance and hatred against other nations and against racial and religious groups everywhere.

Article 24.

Everyone has the right to rest and leisure.

Article 25.

Everyone has the right to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement.

Article 26.

Everyone is entitled to a good social and international order in which the rights and freedoms set out in this Declaration can be fully realized.

Article 27.

1. Everyone has duties to the community which enables him freely to develop his personality.

2. In the exercise of his rights, everyone shall be subject only to such limitations as are necessary to secure due recognition and respect for the rights of others and the requirements of morality, public order and the general welfare in a democratic society.

Article 28.

Nothing in this Declaration shall imply the recognition of the right of any State or person to engage in any activity aimed at the destruction of any of the rights and freedoms prescribed herein.

Note. The Commission has not considered the following article since measures of implementation were not discussed in its third session:

“Everyone has the right, either individually, or in association with others, to petition or to communicate with the public authorities of the State of which he is a national or in which he resides, or with the United Nations.”

III. DRAFT CONVENTIONS ON FREEDOM OF INFORMATION

1. DRAFT CONVENTION ON THE GATHERING AND INTERNATIONAL TRANSMISSION OF NEWS

(Text drafted by the Committee on Human Rights of the Economic
and Social Council during the Seventh Session of the Council,
July 19 to August 29, 1948)

The Contracting States

Desiring to implement the right of their peoples to be fully informed,

Desiring to improve understanding between their peoples through the flow of information and opinion,

Having Resolved to conclude, a Convention for this purpose,

Have Agreed as follows:

Article 1.

For the purposes of the present Convention,

(a) information agency means any press, radio or film organization created or organized under the laws and regulations of a Contracting State, regularly engaged in the collection and dissemination of news material, and includes press associations, news feature services, newspapers, periodicals and radio, television, facsimile and any other broadcasting organizations and newsreel companies;

(b) correspondent means an individual employed by an information agency, or a national of a Contracting State, who in either case is regularly engaged in the collection and reporting of news material, and who, when outside his State, is the holder of a valid passport identifying him as a correspondent or of a similar document internationally accepted identifying him as such;

(c) news material means all news material, whether of information or opinion and whether visual or auditory, for dissemination to the public.

Article 2.

In order to encourage the freest possible movement of correspondents in the performance of their functions, the Contracting States shall expedite, in a manner consistent with their respective laws and procedures, the administrative measures necessary for the entry into, residence in, travel through, and egress from their respective territories of correspondents of other Contracting States together with their professional equipment, and shall not impose restrictions which discriminate against such correspondents with respect to ingress into, residence in, travel through or egress from such territories.

Article 3.

Each Contracting State shall, within the limits compatible with national security, permit and encourage access to news, official and non-official, for all correspondents of other Contracting States so far as possible on the same basis as for its own correspondents, and shall not discriminate among correspondents of other Contracting States as regards such access.

Article 4.

The Contracting States shall permit egress from their territories of all news material of correspondents and information agencies of other Contracting States without censorship, editing or delay; provided that each of the Contracting States may make and enforce regulations relating directly to the maintenance of national security. Such of these regulations as relate to the transmission of news material shall be communicated by the State to correspondents and information agencies of other Contracting States in its territory and shall apply equally to all correspondents and information agencies of other Contracting States.

If the requirements of national security should compel a Contracting State to establish censorship in peace-time it shall:

(1) establish in advance which categories of news material are subject to previous inspection; and publish the directives of the censor announcing forbidden matters;

(2) carry out censorship as far as possible in the presence of the correspondent, or of a representative of the information agency concerned;

(3) where censorship in the presence of the person concerned is not possible:

(a) fix the time-limit allowed the censors for the return of the news material to the correspondent or information agency concerned;

- (b) require the return of news material submitted for censorship direct to the correspondent or information agency concerned so that the correspondent or agency may know at once what has been censored in the text and what use may be made of the censored information;
- (c) in the case of a telegram, base the charge on the number of words composing the telegram after censorship;
- (d) return the total telegraph charges for telegrams submitted for censorship, if the transmission has been delayed more than six hours by reason of censorship and the sender has cancelled the telegram before its transmission.

Article 5.

The Contracting States, while recognizing that correspondents must conform to the laws in force in the countries in which they are operating, agree that correspondents of other Contracting States legally admitted into their territories shall not be expelled on account of any lawful exercise of their right to seek, receive or impart information or opinion.

Article 6.

Correspondents and information agencies of one Contracting State in the territory of another Contracting State shall have access to all facilities in that territory generally and publicly used for the international transmission of news material and may transmit news material from one territory to another (including transmissions between the metropolitan and non-metropolitan territories of any State) on the same basis and at the same rates applicable to all other users of such facilities for similar purposes.

Article 7.

Each Contracting State shall permit all news material of correspondents and information agencies of other Contracting States to enter its territory and reach information agencies operating therein on conditions which are not less favourable than those accorded to any correspondents or information agency of any other Contracting or non-Contracting State.

Article 8.

The present Convention shall not apply to any correspondent of a Contracting State who, while not otherwise admissible under Article 2 into the territory of another Contracting State, is nevertheless admitted conditionally in accordance with an agreement between that other Contracting State and the United Nations, or a Specialized Agency thereof, in order to cover its proceedings, or pursuant to a special arrangement made by that other Contracting State in order to facilitate the entry of such correspondents.

Article 9.

Nothing in this Convention shall be construed as depriving any Contracting State of its right to make and enforce laws and regulations for the protection of national security and public order.

Nothing herein contained shall be construed as depriving any Contracting State of its right to make and enforce laws and regulations prohibiting of obscene news material.

Nothing in the present Convention shall limit the discretion of any Contracting State to refuse entry into its territory to any particular person, or to restrict the period of his residence therein, provided any such restriction does not conflict with the provisions of Article 5.

Article 10.

(The delegations of France, the United Kingdom and the United States of America proposed that the following additional article be inserted:

“Any dispute between two or more Contracting States arising under the present Convention which has not been settled, and is not in process of settlement, by negotiation or otherwise, may be referred by any party to the dispute to a Committee. Each State party to the dispute shall appoint a member of this Committee and the Secretary-General of the United Nations shall appoint a member, a national of a State party to the Convention but not party to the dispute, who shall serve as Chairman of the Committee. The Committee shall investigate such dispute and issue a report and recommendation thereon, which shall be made public by the Secretary-General.”

Though in the course of the discussion this proposal was withdrawn, the Committee decided that it be drawn to the attention of the Council).

Article 11.

In time of war or any other public emergency, a Contracting State may take measures derogating from its obligations under the present Convention to the extent strictly limited by the exigencies of the situation.

Any Contracting State availing itself of this right of derogation shall promptly inform the Secretary-General of the United Nations of the measures which it has thus adopted and of the reasons therefor.

It shall also inform him as and when the measures cease to operate.

Article 12.

The present Convention shall be ratified on behalf of the States signatory hereto in conformity with their respective constitutional procedures. The instruments of ratification shall be deposited with the Secretary-General of the United Nations, who shall notify all signatory and acceding States of each such deposit.

Article 13.

The present Convention shall remain open for accession of all States which are not signatories. Instruments of accession shall be deposited with the Secretary-General of the United Nations, who shall notify all signatory and acceding States of each such deposit.

Article 14.

The present Convention shall come into force as soon as . . . States have deposited their respective instruments of ratification or accession. The Convention thereafter shall come into force with respect to each other State on the date of the deposit of its instrument of ratification or accession.

Article 15.

(a) Each Contracting State undertakes to take as soon as possible the necessary steps with a view to extending the provisions of the present Convention to the territories for whose foreign relations it is responsible.

To this end, having due regard to the position of each territory and particularly to the constitutional practice applicable thereto, each Contracting State may, at the time of its accession or at any time thereafter, by notification addressed to the Secretary-General of the United Nations declare that the present Convention shall extend to any of the territories for the international relations of which it is responsible. The Convention shall extend to the territories named in the notification as from the thirtieth day after the date of receipt by the Secretary-General of the United Nations of the notification.

(b) Each State which has made a declaration under paragraph (a) above extending the present Convention may, subject to the same conditions, at any time thereafter by notification to the Secretary-General of the United Nations declare that the Convention shall cease to extend to any territory named in the notification. The Convention shall then cease to extend to such territory as from the thirtieth day after the date of receipt by the Secretary-General of the United Nations of the notification.

(The delegations of Lebanon, Poland and the Union of Soviet Socialist Republics had proposed the following text to replace Article

14 (new Article 15) as adopted by the United Nations Conference on Freedom of Information:

"The provisions of the present Convention shall extend both to the metropolitan territories of States signing the present Convention and to all the territories under the authority or administration of such metropolitan powers (non-self-governing, trustee and colonial territories), and the provisions in question shall apply equally both to the territories of the metropolitan powers and to the dependent territories mentioned.

(a) The Secretary-General of the United Nations will immediately inform of the present Convention the States representing other States and Territories internationally, on behalf of such other States. Such communication to be transmitted immediately to the authorities of non-self-governing, non-autonomous and similar territories.

(b) Each State or territory for the international relations of which another State is responsible may accede to the present Convention by notification of accession addressed to the Secretary-General of the United Nations through the agency of the State representing it internationally, such notification of accession to be transmitted to the Secretary-General of the United Nations without delay.

(c) The present Convention shall come into force with respect to any State or territory referred to in the preceding paragraph as from the date of deposit of its instrument of accession, even if the State which is responsible for its international relations does not ratify the Convention.

(d) A State or territory which has acceded to the present Convention in accordance with the preceding paragraph, may denounce it at any later date by means of six months' notice in writing given to the Secretary-General of the United Nations through the agency of the State representing it internationally.

"The Secretary-General of the United Nations shall transmit a copy of the notice to each of the other Contracting States. After the expiration of this period of six months, the Convention shall cease in its effects as regards the State or territory which denounces it.")

Article 16.

The present Convention shall remain in force indefinitely, but may be denounced by any Contracting State, by means of six months' notice in writing given to the Secretary-General of the United Nations, who shall transmit a copy of the notice to each of the other Contracting States. After the expiration of this period of six months, the Conven-

tion shall cease in its effect as regards the State which denounces it, but shall remain in force for the remaining Contracting States.

In Witness Whereof, the Plenipotentiaries of the respective States, being duly authorized thereto, have signed the present Convention.

DONE at this day of 1948, in the languages, each equally authentic, the original of which shall be deposited in the archives of the United Nations. The Secretary-General of the United Nations shall transmit certified copies thereof to all the signatory and acceding States.

2. DRAFT CONVENTION CONCERNING THE INSTITUTION OF AN INTERNATIONAL RIGHT OF CORRECTION

(Text recommended by the United Nations Conference on Freedom of Information which took place at Geneva, March 23, 1948)

THE GOVERNMENTS PARTIES to the present Convention,

Considering the danger to the maintenance of friendly relations between peoples and to the preservation of peace, presented by the publication of inaccurate reports;

Considering that at its Second Session, the General Assembly of the United Nations recommended the adoption of measures designed to promote friendly relations among nations and to combat the dissemination of false or distorted reports likely to injure the friendly relations between States;

Considering, however, that it does not at present appear possible or desirable to envisage the institution on the international level of a procedure for verifying the accuracy of a report such as might lead to the imposition of penalties for the publication of false or distorted reports;

Considering, moreover, that to prevent the publication of false or distorted news or to reduce its pernicious effects, it is above all necessary to sharpen the sense of responsibility of the various media of information and to promote the wide circulation of news;

That an effective means to this end is to give all those directly affected by a report which they consider false or distorted and which is spread by an organ of information the possibility of ensuring commensurate publicity for their corrections or replies; that the right of reply or correction had been embodied in the legislation of a large number of States and that its legitimacy is recognized in the Draft of

Article 17 of the Covenant on Human Rights which the Sub-Commission on Freedom of Information and of the Press decided, at its Second Session, to recommend to the Commission on Human Rights; that failing the adoption, by all States, in their own legislation, of a like right available to foreign nationals under the same conditions as to their own nationals, it is particularly desirable to institute on the international level a right of correction; that it is necessary, however, in order to prevent any abuse, strictly to define the extent of the right of correction, and clearly to specify the conditions for its exercise;

Have Adopted the following Articles:

Article 1.

In cases where a Contracting State alleges that news reports likely to injure its relations with other States transmitted from one country to another country by foreign correspondents or by news agencies and disseminated abroad, are false or distorted, it may submit its version of the facts (hereinafter called "communique") to the Contracting States within whose territories such reports have been published in one or more newspapers or periodicals or disseminated by radio. Such communique may be issued only with respect to news reports and must be without comment or expression of opinion. As far as possible the communique should not contain a larger number of words than the news report objected to, and in no case more than double the number of words in the news report to be corrected. The communique must be accompanied by a verbatim text of the report as published or disseminated, and by evidence that the report objected to has been transmitted from one country to another by a foreign correspondent or by a news agency.

Article 2.

1. Any Government of a Contracting State receiving such a communique shall, whatever be its opinion concerning the facts in question, make available to the news enterprises functioning in the territory where it exercises its authority the communique of the Government exercising the right of correction and, within five clear days from the date of receiving this communique, shall facilitate its dissemination through customary channels in accordance with its procedure for releasing news concerning international affairs.

2. In the event of the failure of any Contracting State to discharge its obligation under this article with respect to the communiques of another Contracting State, the latter may discharge on the basis of reciprocity its obligation with respect to any communiques thereafter submitted to it by the defaulting State.

Article 3.

If any of the Contracting States to which this communique has been transmitted fails to fulfill within the prescribed time-limit, the obliga-

tion laid down in the preceding article, the Government exercising the right of correction may submit the said communique to the Secretary-General of the United Nations who shall, within five clear days from the receipt thereof, give it appropriate publicity. This paragraph shall come into force as soon as the General Assembly of the United Nations has instructed its Secretary-General to perform this duty.

Article 4.

Every Contracting State may, to the extent strictly limited by the exigencies of the situation, derogate from its obligations under the present Convention.

(a) as long as a state of war or public emergency prevails in its own territory,

(b) as long as such a state prevails in the territory of one or other Contracting States, but only with regard to those States.

Article 5.

Any dispute between any two or more Contracting States concerning the interpretation or application of the present Convention which is not settled by negotiations shall be referred to the International Court of Justice for decision unless the Contracting States agree to another mode of settlement.

Article 6.

The present Convention shall be open for accession to every State invited to the United Nations Conference on Freedom of Information held at Geneva in March and April, 1948, and to every other State which the General Assembly of the United Nations shall, by resolution, declare to be eligible.

Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 7.

When any two of the States mentioned in Article 6 have deposited their instruments of accession, the present Convention shall come into force between them on the thirtieth day after the date of the deposit of the second instrument of accession. It shall come into force for each State which accedes after that date on the thirtieth day after the deposit of its instrument of accession.

Article 8.

Any Contracting State may denounce the present Convention by notification of denunciation to the Secretary-General of the United Nations. Denunciation shall take effect six months after the date of

receipt by the Secretary-General of the United Nations of the notification of denunciation.

Article 9.

1. A State party to the present Convention may at the same time of its accession thereto or at any time thereafter by notification addressed to the Secretary-General of the United Nations declare that the present Convention shall extend to any of the territories for the international relations of which it is responsible, and the Convention shall extend to the territories named in the notification as from the thirtieth day after the date of receipt by the Secretary-General of the United Nations of the notification. The respective Contracting States undertake to seek immediately the consent of the Governments of such territories to the application of the present Convention to such territories, and to accede forthwith on behalf of and in respect of each such territory, if and when its consent has been obtained.

2. A State which has made a declaration under paragraph 1 above extending the present Convention may with the consent of the Government concerned at any time thereafter by notification to the Secretary-General of the United Nations declare that the Convention shall cease to extend to any territory named in the notification, and the Convention shall then cease to extend to such territory six months after the date of receipt by the Secretary-General of the United Nations of the notification.

Article 10.

The Secretary-General of the United Nations shall notify each of the States referred to in Article 6 of the date of the deposit of every instrument of accession and of the date on which this Convention comes into force and of any information received by him in accordance with the provisions of Article 5 and of every notification received by him in accordance with the provisions of Articles 7 or 8.

3. DRAFT CONVENTION ON FREEDOM OF INFORMATION

(Text recommended by the United Nations Conference on Freedom of Information, Geneva, March 23-April 21, 1948)

THE STATES PARTIES TO THIS CONVENTION,

Considering that the free interchange of information and opinions, both in the national and in the international sphere, is a fundamental human right and essential in the cause of peace and for the achievement of political, social and economic progress,
and

Desiring to co-operate fully with one another to promote the peace and welfare of mankind by this means,

Have accepted the following provisions:

Article 1.

Subject to the provisions of Articles 2, 4, 5 and 6 of this Convention,

- (a) each Contracting state shall secure to all its own nationals and to the nationals of every other Contracting State lawfully within its territory freedom to impart and receive information and opinions, orally, by written or printed matter, in the form of art, or by legally operated visual or auditory devices without governmental interference;
- (b) no Contracting State shall regulate or control the use or availability of any of the means of communication referred to in the preceding paragraph, in any manner discriminating against any of its own nationals or of the nationals of any other Contracting State on political or personal grounds or on the basis of race, sex, language or religion;
- (c) each Contracting State shall secure to all its own nationals and to the nationals of every other Contracting State, freedom to transmit and listen to information and opinions within its territories and across its frontiers by any legally operated means without governmental interference;
- (d) each Contracting State shall permit the nationals of other Contracting States as much freedom to seek information as it grants to its own nationals;
- (e) the Contracting States shall encourage and facilitate the interchange between their territories of those of their nationals engaged in the gathering of information and opinions for dissemination to the public and shall deal expeditiously with applications by such persons to enter their territories.

Article 2.

1. The freedoms referred to in Paragraphs (a), (c) and (d) of Article 1 carry with them duties and responsibilities and may therefore be subject to necessary penalties, liabilities and restrictions clearly defined by law, but only with regard to:

- (a) matters which must remain secret in the interest of national safety;
- (b) expressions which incite persons to alter by violence the system of government or which promote disorder;

- (c) expressions which incite persons to commit criminal acts;
 - (d) expressions which are obscene or which are dangerous for youth and expressed in publications intended for them;
 - (e) expressions which are injurious to the fair conduct of legal proceedings;
 - (f) expressions which infringe literary or artistic rights;
 - (g) expressions about other persons, natural or legal, which defame their reputations or are otherwise injurious to them without benefiting the public;
 - (h) legal obligations resulting from professional, contractual or other legal relationships including disclosure of information received in confidence in a professional or official capacity;
 - (i) the prevention of fraud;
 - (j) the systematic diffusion of deliberately false or distorted reports which undermine friendly relations between peoples or States.
2. A Contracting State may establish on reasonable terms a right of reply or a similar corrective remedy.

Article 3.

Each Contracting State shall encourage the establishment and functioning within its territory of one or more non-official organizations of persons employed in the dissemination of information to the public, in order to promote the observance by such persons of high standards of professional conduct, and in particular:

- (a) to report facts without prejudice and in their proper context and to make comments without malicious intent;
- (b) to facilitate the solution of the economic, social and humanitarian problems of the world as a whole and the free interchange of information bearing on such problems;
- (c) to help promote respect for human rights and fundamental freedoms without discrimination;
- (d) to help maintain international peace and security;
- (e) to counteract the persistent spreading of false or distorted reports which promote hatred or prejudice against States, persons or groups of different race, language, religion or philosophical conviction.

Article 4.

Nothing in the present Convention shall affect the right of any Contracting State to take measures which it deems necessary in order:

- (a) to bring its balance of payments into equilibrium;
 - (b) to develop its national news enterprises until such time as such news enterprises are fully developed;
 - (c) to prevent agreements in restraint of the free flow of information or the cartelization in regard to information:
- provided that such measures may not be used as a means of preventing the entry of nationals of other Contracting States who are engaged in the gathering of information and opinions for dissemination to the public.

Article 5.

Nothing in the present Convention shall prevent a Contracting State from reserving under its legislation to its own nationals the right to edit newspapers or news periodicals produced within its territory.

Article 6.

Nothing in the present Convention shall limit the discretion of any Contracting State to refuse entry into its territory to any particular person, or to restrict the period of his residence thereon.

Article 7.

As between the Contracting States which become parties to any general agreement on Human Rights sponsored by the United Nations and containing provisions relating to freedom of information, the present Convention shall be superseded by such agreement to the extent that the two instruments are inconsistent.

Article 8.

In time of war or other public emergency a Contracting State may take measures derogating from its obligations under the present Convention to the extent strictly limited by the exigencies of the situation.

Any Contracting State availing itself of this right of derogation shall promptly inform the Secretary-General of the United Nations of the Measures which it has thus adopted and of the reasons therefor. It shall also inform him as and when the measures cease to operate.

Article 9.

Any dispute between any two or more Contracting States concerning the interpretation or application of the present Convention which is not settled by negotiations shall be referred to the International

Court of Justice for decision unless the Contracting States agree to another mode of settlement.

Article 10.

1. The present Convention shall be open for accession to every State invited to the United Nations Conference on Freedom of Information held at Geneva in March and April, 1948, and to every other State which the General Assembly of the United Nations shall, by resolution, declare to be eligible.

2. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 11.

When any two of the States mentioned in Article 10 have deposited their instruments of accession, the present Convention shall come into force between them on the thirtieth day after the date of deposit of the second instrument of accession. It shall come into force for each State which accedes after that date on the thirtieth day after the deposit of its instrument of accession.

Article 12.

Any Contracting State may denounce the present Convention by notification of denunciation to the Secretary-General of the United Nations. Denunciation shall take effect six months after the date of receipt of the Secretary-General of the United Nations of the notification of denunciation.

Article 13.

(a) A State party to the present Convention may at the same time of its accession thereto or at any time thereafter by notification addressed to the Secretary-General of the United Nations declare that the present Convention shall extend to any of the territories for the international relations of which it is responsible, and the Convention shall extend to the territories named in the notification as from the thirtieth day after the date of receipt by the Secretary-General of the United Nations of the notification. The respective Contracting States undertake to seek immediately the consent of the Governments of such territories to the application of the present Convention to such territories, and to accede forthwith on behalf of and in respect of each such territory, if and when its consent has been obtained.

(b) A State which has made a declaration under paragraph (a) above extending the present Convention may with the consent of the Government concerned at any time thereafter by notification to the Secretary-General of the United Nations declare that the Convention shall cease to extend to any territory named in the notification, and

the Convention shall then cease to extend to such territory six months after the date of receipt by the Secretary-General of the United Nations of the notification.

Article 14.

The Secretary-General of the United Nations shall notify each of the States referred to in Article 10 of the date of the deposit of every instrument of accession and of the date on which this Convention comes into force and of any information received by him in accordance with the provisions of Article 11 and of every notification received by him in accordance with the provisions of Articles 12 or 13.

IV. DRAFT CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE

(Text drafted by the ad hoc Committee during its session from April 5-May 10, 1948)

The High Contracting Parties

declaring that genocide is a grave crime against mankind which is contrary to the spirit and aims of the United Nations and which the civilized world condemns;

having been profoundly shocked by many recent instances of genocide;

having taken note of the fact that the International Military Tribunal at Nurnberg in its judgment of September 30—October 1, 1946 has punished under a different legal description certain persons who have committed acts similar to those which the present Convention aims at punishing, and

being convinced that the prevention and punishment of genocide requires international co-operation,

Hereby Agree to Prevent and Punish the Crime as Hereinafter Provided:

Article 1.

Genocide is a crime under international law whether committed in time of peace or in time of war.

Article 2.

In this Convention genocide means any of the following deliberate acts committed with the intent to destroy a national, racial, religious or political group, on grounds of the national or racial origin, religious belief, or political opinion of its members:

- (1) killing members of the group;
- (2) impairing the physical integrity of members of the group;
- (3) inflicting on members of the group measures or conditions of life aimed at causing their deaths;

- (4) imposing measures intended to prevent births within the group.

Article 3.

In this Convention genocide also means any deliberate act committed with the intent to destroy the language, religion, or culture of a national, racial or religious group on grounds of the national or racial origin or religious belief of its members such as:

- (1) prohibiting the use of the language of the group in daily intercourse or in schools, or the printing and circulation of publications in the language of the group;
- (2) destroying or preventing the use of libraries, museums, schools, historical monuments, places of worship or other cultural institutions and objects of the group.

Article 4.

The following acts shall be punishable:

- (a) genocide as defined in Articles 2 and 3;
- (b) conspiracy to commit genocide;
- (c) direct incitement in public or in private to commit genocide whether such incitement be successful or not;
- (d) attempt to commit genocide;
- (e) complicity in any of the acts enumerated in this article.

Article 5.

Those committing genocide or any of the other acts enumerated in Article 4 shall be punished whether they are Heads of State, public officials or private individuals.

Article 6.

The High Contracting Parties undertake to enact the necessary legislation in accordance with their constitutional procedures to give effect to the provisions of this Convention.

Article 7.

Persons charged with genocide or any of the other acts enumerated in Article 4 shall be tried by a competent tribunal of the State in the territory of which the act was committed or by a competent international tribunal.

Article 8.

1. A party to this Convention may call upon any competent Organ of the United Nations to take such action as may be appropriate under

the Charter for the prevention and suppression of genocide.

2. A party to this Convention may bring to the attention of any competent Organ of the United Nations any case of violation of this Convention.

Article 9.

1. Genocide and the other acts enumerated in Article 4 shall not be considered as political crimes and therefore shall be grounds for extradition.

2. Each party of this Convention pledges itself to grant extradition in such cases in accordance with its laws and treaties in force.

Article 10.

Disputes between the High Contracting Parties relating to the interpretation or application of this Convention shall be submitted to the International Court of Justice provided that no dispute shall be submitted to the International Court of Justice involving an issue which has been referred to and is pending before or has been passed upon by competent international criminal tribunal.

Article 11.

The present Convention of which the Chinese, English, French, Russian and Spanish texts are equally authentic shall bear the date of . . .

Article 12.

1. The present Convention shall be open until 31 194.... for signature on behalf of any Member of the United Nations and of any non-member State to which an invitation to sign has been addressed by the General Assembly.

The present Convention shall be ratified and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

2. After 1 194 . . . the present Convention may be acceded to on behalf of any Member of the United Nations and of any non-member State that has received an invitation as aforesaid.

Instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 13.

1. The present Convention shall come into force on the ninetieth day following the receipt by the Secretary-General of the United Nations of not less than twenty instruments of ratification or accession.

2. Ratification or accession received after the Convention has come into force shall become effective as from the ninetieth day following the date of deposit with the Secretary-General of the United Nations.

Article 14.

1. The present Convention shall remain in effect for a period of five years dating from its entry into force.

2. It shall remain in force for further successive periods of five years for such Contracting Parties that have not denounced it at least six months before the expiration of the current period.

Article 15.

Should the number of Parties to this Convention become less than sixteen as a result of denunciations, the Convention shall cease to have effect as from the date on which the last of these denunciations shall become operative.

Article 16.

1. Upon receipt by the Secretary-General of the United Nations of written communications from one-fourth of the number of High Contracting Parties, requesting consideration of the revision of the present Convention and the transmission of the respective requests to the General Assembly, the Secretary-General shall transmit such communications to the General Assembly.

2. The General Assembly shall decide upon the steps, if any, to be taken in respect of such requests.

Article 17.

The Secretary-General of the United Nations shall notify all Members of the United Nations and non-member States referred to in Article 12 of all signatures, ratifications and accessions received in accordance with Articles 12 and 13, of the date upon which the present Convention has come into force, of denunciations received in accordance with Article 14, of the abrogation of the Convention effected as provided by Article 15, and of requests for revision of the Convention made in accordance with Article 16.

Article 18.

The original of this Convention shall be deposited in the Archives of the United Nations.

A certified copy thereof shall be transmitted to all Members of the United Nations and to the non-member States referred to under Article 12.

Article 19.

The present Convention shall be registered by the Secretary-General of the United Nations on the date of its coming into force.



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